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Abbreviations

ADB	Asian Development Bank
AIDS	Acquired Immune Deficiency Syndrome
AJC	Advisory Jurist Council
AP	Authorized Persons
ASCA	Accumulating Savings and Credit Associations
BRIDGE	Bridging Resources in Democracy and Gender Election
CBR	Crude Birth Rate
CDR	Crude Death Rate
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CoM	Council of Ministers
CPR	Contraception Prevalence Rate
CRP	Comprehensive Reform Program
CPI	Consumer Price Index
DLA	Department of Local Authorities
DoC	Department of Cooperatives
DSPPAC	Department of Strategic Policy, Planning and Aid Coordination
DWA	Department of Women's Affairs
ECE	Early Childhood Education
ECo	Electoral Commission Office
FLE	Family Life Syllabus
FPA	Family Protection Act
FPO	Family Protection Order
GEPG	Gender in Political Governance
GER	Gross Enrollment Rate
GDP	Gross Domestic Product
GNI	Gross National Income
GPI	Gender Parity Index
HIS	Health Information System
IFC	International Finance Corporation
IUD	Intra Uterine Device
ILO	International Labor Organizations
ITUC	International Trade Union Conference
KPHC	Kam Pusum Hed Clinic
MCA	Millennium Challenge Account
MoE	Ministry of Education
MoFEC	Ministry of Finance and Economic Management
MoFA	Ministry of Foreign Affairs
MoH	Ministry of Health
MoJCS	Ministry of Justice and Community Services
MOU	Memorandum of Understanding
MSG	Melanesian Spearhead Group
MSM	Men having Sex with Men

NAC	National AIDS committee
NCHS	National Center for Health Statistics
NER	Net enrollment rate
NGO	Non-governmental organizations
NPAW	National Plan of Action for Women
PAA	Priorities and Action Agenda
PCC	Pacific Council of Churches
PDIC	Pacific Directors Immigration Conference
PLWH	People Living with HIV/AIDS
PM	Prime Minister
PSC	Public Service Commission
RBV	Reserve Bank of Vanuatu
REDI	Rural Economic Development Initiative
RRRT	Regional Right Resource Team
SLO	State Law Office
SPC	Secretariat of the Pacific Community
TIV	Transparency in Vanuatu
TPO	Temporary Protection Order
UNICEF	United Nations Children's Fund
UN-Women	United Nations Entity for Gender Equality and the Empowerment of Women
UPR	Universal periodic review
USD	United States Dollars
VADB	Vanuatu Agricultural Development Bank
VANGO	Vanuatu Association of Non-Governmental Organizations
VBTC	Vanuatu Broadcasting and Television Corporation
VEMIS	Vanuatu Education Management Information System
VERM	Vanuatu Education Road Map
VESS	Vanuatu Education Sector Strategy
VFSC	Vanuatu Financial Services Commission
VCC	Vanuatu Christian Council
VCTU	Vanuatu Council of Trade Union
VLC	Vanuatu Law Commission
VMS	Vanuatu Meteorological Services
VNNS	Vanuatu National Nutrition Survey
VNSO	Vanuatu National Statistics Office
VNWU	Vanuatu National Workers Union
VNPF	Vanuatu National Provident Fund
VTU	Vanuatu Trade Union
VWC	Vanuatu Women's Center
WB	World Bank
WHO	World Health Organization
WISDM	Women in Shared Decision Making
WSB	Wan Smol Bag Theatre

I. Introduction

1. The Republic of Vanuatu ratified the Convention on the Elimination of All Forms of Discrimination against Women without reservations on 13 April 1995. It came into force under the laws of Vanuatu on 14 August 1995, gazetted under official gazette number 22. Vanuatu acceded to the Optional Protocol to the Convention on 17 May 2007.

2. The combined fourth and fifth periodic reports have been prepared in line with the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a core document and treaty-specific documents, issued by the United Nations under its Human Rights Instruments (HRI) issuances, specifically HRI/GEN/2/Rev.6, issued on 3 June 2009. The combined initial, second and third periodic reports (CEDAW/C/VUT/1-3) were submitted by Vanuatu on 30 November 2005 and were considered by the Committee on the Elimination of Discrimination against Women on 18 May 2007.

3. The present periodic report covers the period of October 2004 to October 2011, the period after which Vanuatu submitted its combined initial, second and third reports, and the period this combined fourth and fifth report was submitted and approved by the Council of Ministers (CoM). It consists of two (2) Parts: Part I – common core document; and Part II – convention-specific-document. Vanuatu is submitting a common core document for the first time and has integrated all relevant information contained in its previous combined initial, second and third periodic report the universal periodic review (UPR) report and the 1997 core document report in the combined fourth and fifth periodic reports.

II. General information

4. Vanuatu, meaning "our land", was jointly administered by Great Britain and France for 74 years. It was known as the New Hebrides, or the Anglo-French Condominium; it obtained its independence on 30 July 1980 as a sovereign democratic State (Constitution of the Republic of Vanuatu (VU Const.)art. 1).

5. The "Y-shaped" archipelago of Vanuatu stretches over some 1,300 kilometers in the center of a quadrangle marked by Fiji (to the East), Australia (West), the Solomon Islands (North) and New Caledonia (South). The 83 islands, of which 65 are inhabited, have a total land area of 12,281 kilometers between latitudes 13°S and 21°S and longitudes 165°E and 170°E (Vanuatu Meteorological Services, 2011).

6. In 1994, the country reorganized from 11 island councils to six provinces under the Decentralization Act [Cap 230]. The names of the provinces were derived from the initial letters of their constituent islands (total of 17 constituencies), which are as follows: Malampa (Malekula, Ambrym, Paama), Penama (Pentecost, Ambae, Maewo), Sanma (Espiritu Santo, Malo), Shefa (Shepherd Islands, Efate), Tafea (Tanna, Aniwa, Futuna, Erromango, Aneitum) and Torba (Torres Islands, Banks Islands). The two largest towns are Port Vila, the capital, which is situated on Efate, and Luganville, on Espiritu Santo. Lenakel in Tanna, Tafea province is the country's third municipality.

7. Most of the islands are mountainous and of volcanic origin. The highest point in Vanuatu is Mount Tabwemasana, at 1,879 m (6,158 ft) above sea level on the island of Espiritu Santo. There are several active volcanoes in Vanuatu, including Yasur on the island of Tanna, one of the world's most accessible volcanoes, as well as several underwater ones (Vanuatu Tourism Office, 2009). It is geographically located along the so-called "ring of fire" and geologic and climatic hazards is its norm. Accordingly, Vanuatu

faces constant risks of volcanic eruptions, earthquakes, tsunamis and landslides due to its islands' volcanic origin (Vanuatu National Assessment Report, 2010).

8. Its tropical maritime climate has a uniform temperature, high humidity and variable rainfall characteristics. Winds are generally light except during a tropical storm. There are two distinct seasons, the cold (dry) season from May to October and the hot (wet/cyclone) season from November to April (Vanuatu Meteorological Services, 2011). However, according to the Vanuatu National Assessment Report, which is a five-year review of the Mauritius Strategy for the Further Implementation of the Barbados Programme of Action for the Sustainable Development of Small Island Developing States, sponsored by the United Nations, Vanuatu has been experiencing an annual cyclone season lasting for a period of six months. It was also reported that weather patterns due to El Niño and La Niña increase the risks of droughts and floods. It was predicted that over time the risks of cyclone, coastal flooding, coastal erosion, heavy rainfall events and droughts are to increase. The impacts of sea level rise and climate change were reported to be visible in the islands. Out of 111 developing countries assessed using the Commonwealth Vulnerability Index, Vanuatu ranked as the world's most vulnerable country.

9. Ni-Vanuatu comprise the vast majority of the population of Vanuatu, meaning the indigenous population of Vanuatu or the nationals and citizens of Vanuatu (VU Const. art. 3).

A. Demographic, economic, social and cultural characteristics

1. Demography

10. The first national population Census of Vanuatu took place in 1967, followed by another census in 1979. Since 1979, the national Census of Vanuatu has taken place every 10 years. The last national Census was conducted in November 2009, showing that Vanuatu has a total population of 234,023. Statistics from the 2009 Census indicates an increase in the population since the 1999 Census, with an average annual rate of population growth of 2.3%, or an average increase of 4,733 people per year between 1999 and 2009 (see table 1).

Table 1
Total population by province, census year and population density, Vanuatu: 1999–2009

	Population in Census Year					*Land Area*	*Population Density (Number of Persons per km2)*				
Province	*1967*	*1979*	*1989*	*1999*	*2009*	*(km2)*	*1967*	*1979*	*1989*	*1999*	*2009*
Vanuatu	77,710	111,251	142,419	186,678	234,023	12,281.25	6.3	9.1	11.6	15.2	19.1
Torba	3,481	4,958	5,985	7,757	9,359	867.33	4	5.7	6.9	8.9	10.8
Sanma	12,785	19,423	25,542	36,084	45,855	4,262.06	3	4.6	6	8.5	10.8
Penama	13,968	18,937	22,281	26,646	30,819	1,203.92	11.6	15.7	18.5	22.1	25.6
Malampa	17,407	23,567	28,174	32,705	36,727	2,808.41	6.2	8.4	10	11.6	13.1
Shefa	17,633	26,860	38,023	54,439	78,723	1,507.36	11.7	17.8	25.2	36.1	52.2
Tafea	12,436	17,506	22,414	29,047	32,540	1,632.17	7.6	10.7	13.7	17.8	19.9

Source: Vanuatu National Statistics Office (VNSO), 2009.

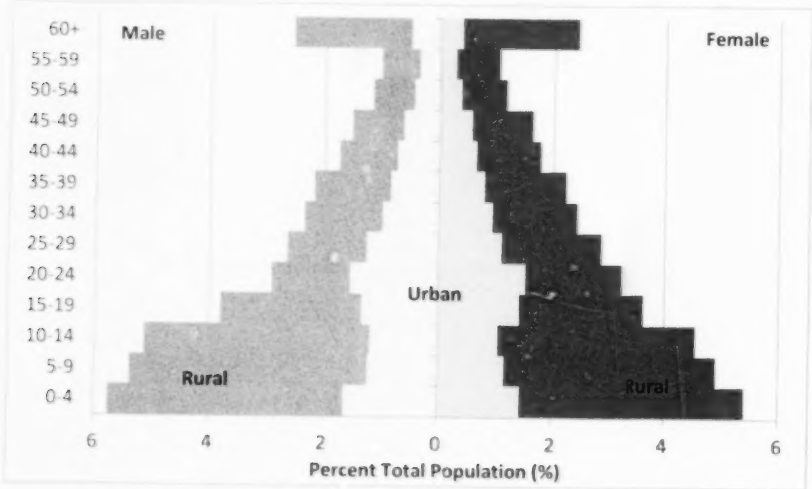
11. The above table also shows that the total population density is 19 people per square kilometer, which is an increase from 1999 of 15 people per square kilometer. In Vanuatu, population density varies throughout the provinces. According to the VNSO National Population and Housing Census Analytical Report of 2009, Shefa province is densely populated, largely due to urbanization, while Sanma and Malampa both have low density, despite high populations, due to large land areas and inhospitable terrain.

12. The 2009 national Census sex population shows that there are more males than females living in both urban and rural areas. The male population is slightly higher than the female population, with a male population of 119,091 (51%) and female 114,932 (49%) for male and female sex population respectively (see fig. I).

13. Figure I also shows that the Vanuatu population is young, with 39% of the total population under the age of 15 years, and only 6% 60 years and older in 2009. The population structure by broad age group according to the 2009 Census shows that the number of children (below 15 years of age) constitutes the highest population structure, followed by the youth population (15–24 years of age), the population aged 25–29, and the older population structure (60 years and older). In terms of sex, statistics show that, since 1999, the female population structure is higher than the male for children and youth while the male population structure is higher than the female for the older population structure.

Figure I

Total population by sex, five year age group, and urban and rural areas, Vanuatu: 2009



Source: VNSO, 2009. Light shading = urban areas.

14. In Vanuatu, the sex ratio is 104 males per 100 females. However, the sex ratio varies per province and by age group as discussed.

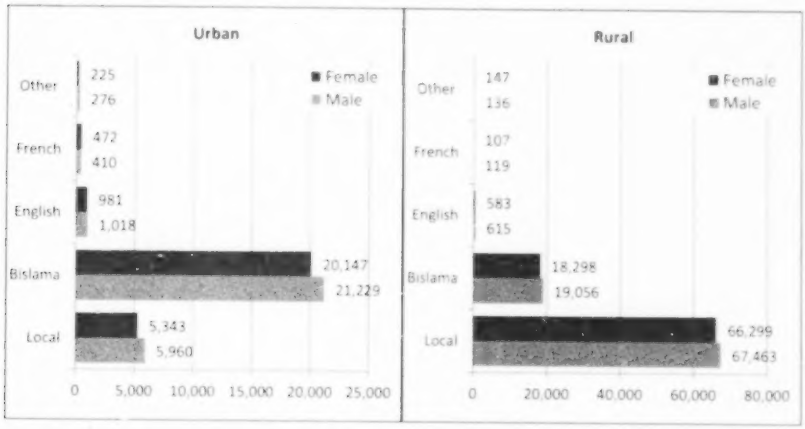
15. The median age is 20.5 years. The age dependency ratio was calculated using the 15–59 year-old age group as the "working age population". According to VNSO, the 2009 Census shows that for every 100 people of working age, 81 were in the age-dependent category or aged less than 15 years of age and 60 years and older. This ratio is very high, reflecting the young population structure.

16. The 2009 national Census of Vanuatu shows that the total urban population for 2009 was 57,195, constituting 24% of the total population, while the total rural population is 176,828, or 76%. The urban population includes the town of Luganville (Sanma province), with 13,156 total population, and Port Vila (Shefa province), with 44,039 total population. The Census of 2009 also indicates that there is higher population growth in urban areas, with an average urban population increase of 3.5% per annum since 1999.

17. The Vanuatu national lingua franca is Bislama. The official languages are Bislama, English and French, with the latter two as the principal languages of education (VU Const. art. 3, cl. 1). Although Bislama is the lingua franca, there are other 110 individual languages listed for Vanuatu. Out of the 110 languages, 108 are living languages and two (2) have no known speakers (Lewis, M. Paul (ed.), 2009). The proportion of Bislama speakers according to the Vanuatu 2009 Census shows that the Bislama speaking population is higher in rural than in urban areas. However, the Census of 2009 also indicates that the main language spoken in private households is a local language (63%), followed by Bislama (34%), English (2%), and French (1%) (see fig. II).

Figure II

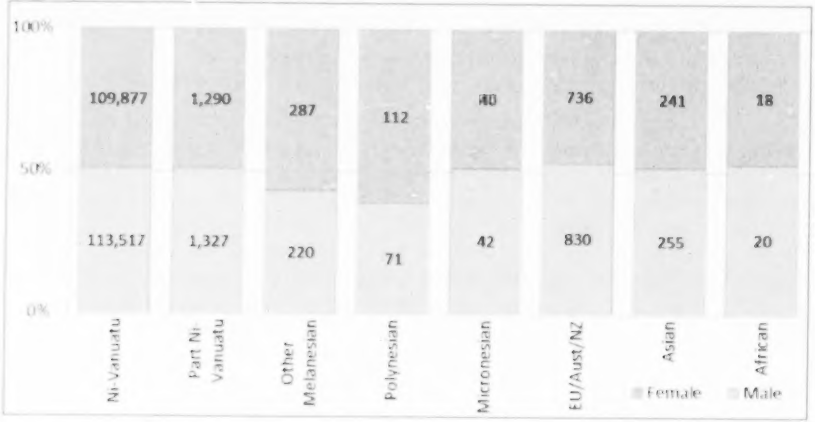
Population in households, main language spoken in household and sex, for urban and rural areas, Vanuatu: 2009



Source: VNSO, 2009.

18. Vanuatu is ethnically homogeneous and ni-Vanuatu comprise 99% of the population living in private households (2009). The Census of 2009 shows a total number of ni-Vanuatu of 223,394 (97%). The remaining 5,489 persons are mostly part ni-Vanuatu (part ni-Vanuatu is used for Census purposes and does not intend to discriminate the definition provided for under the constitution). According to the Vanuatu Census of 2009, there are more males of other ethnic origin than females (see fig. III).

Figure III
Ethnic origin by sex, Vanuatu: 2009



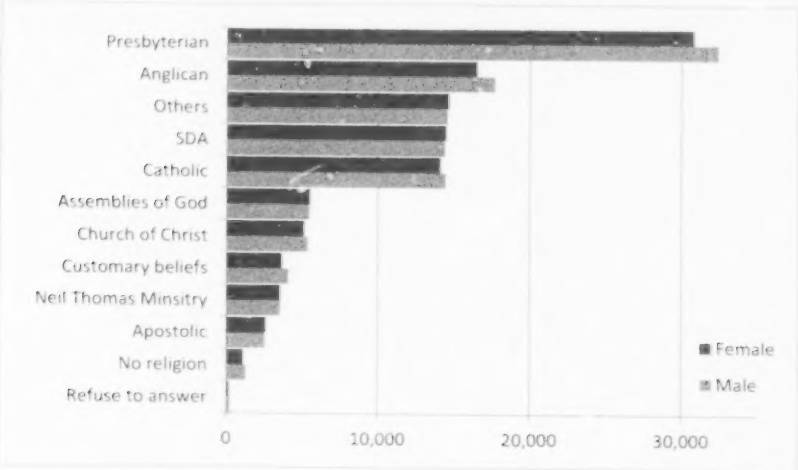
Source: VNSO, 2009

19. Christian missionaries arrived in Vanuatu in the nineteenth century (1839), sent by the London Missionary Society, and established missions in different provinces that influenced the geographic spread of Christian denominations. Today, Vanuatu society is strongly Christian, with its motto, "Long God Yumi Stanap" (In God We Stand). The Vanuatu Constitution, under article 5, paragraph 1, allows the freedom of conscience and worship. Most of the Vanuatu leaders at the time of Independence were the product of church institutions (core document, 1997). Churches are also influential in organizing women's groups and establishing strong forums for empowering and strengthening women through networking (CEDAW /C/VUT/1-3, para. 10).

20. The largest religious denomination according to the Vanuatu 2009 Census is Presbyterian (28%), followed by Anglican (15%), Seventh Day Adventist (SDA) (12%), and Catholic (12%), and followed by five other religious denominations. From the 2009 Census, 7,771 (3%) responded that they affiliate with customary beliefs and do not affiliate in Christian religions. There are more male religious practicing members than females, except for the denominations of Apostolic, Assembly of God; Seventh-Day Adventist, and the "other" religious category where the number of females with religious affiliation are higher than males (see fig. IV).

Figure IV

Total population by religion, sex and five-year age group, Vanuatu: 2009

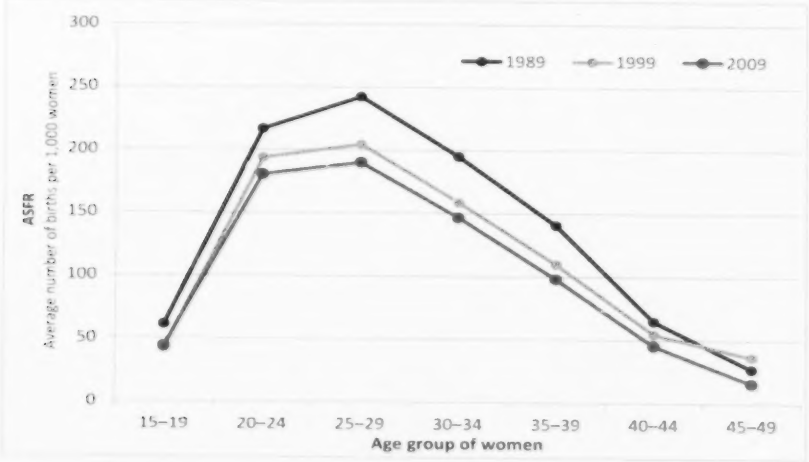


Source: VNSO, 2009

21. In 2009 the estimated number of births from the Census was 7,335, which results in a crude birth rate (CBR) of 31.3 per 1,000 births. Based on the Census 2009 derived life tables, a crude death rate (CDR) of 5.4 per 1,000 , or approximately 1,260 deaths in 2009, was calculated. In general, mortality indicators are better for females than for males, with females expected to live on average about three years longer more than males.

Figure V

Reported age-specific-fertility rates (ASFR), Vanuatu: 1989, 1999, 2009



Source: VNSO, 2009

22. According to a World Health Organization (WHO) 2009 report, globally, females live longer than males on average by six to eight years. This difference is partly due to an inherent biological advantage for the females. But it also reflects behavioral difference

between men and women. In Vanuatu, the 2009 Census shows that female life expectancy at birth is 72.7 years and 69.6 years for males, representing an increase compared to 1999 (69.0 for males and 65.6 for females respectively).

23. The Vanuatu Census of 2009 shows that the average number of births per woman in her reproductive life (total fertility rate) declined from 4.6 in 1999 to 4.1 in 2009. There was a population of 71,486 females (15 years and older) who had ever given birth; 18,945 of which lived in urban areas and 52,541 in rural areas. The MoH reported that in the main national referral hospital in Port Vila there were 2,246 births in 2009, or an average of 6–7 births per day (MoH Annual Report, 2010).

24. In 2009 women aged 20–29 produced the most children, with about 200 children per 1,000 women in that age group. The so-called teenage fertility rate, the number of children of women aged 15–19 years, was 66, which means that 66 children were born per 1,000 women aged 15–19; a decrease from 61 births per every 1,000 teenage women in 1989; but not a significant decrease from the 1999 Census. The last three censuses show a decrease in fertility as the average number of children per woman at every age has declined from one census to the next. While the average number of children of women aged 45–49 years was 5.5 in 1989, it declined to 4.8 and 4.4 in 1999 and 2009.

25. In Vanuatu, women marry at a younger average age than men, with average age at marriage for males estimated at 25.5 years and 22.5 years for females in 2009. While the average age for males has increased slightly since 25.3 in 1999, it has decreased slightly for females from 23.0 in 1999. The Vanuatu 2009 Census shows the marital status of the population aged (15 years and older) with 62,884 (54%) females who were never married while 37,704 (33%) were legally married with 9,987 (9%) females in a de facto relationship. There were 1,121 (1%) separated or divorced females and 3,236 (3%) female widows. The 2009 Census also indicates that there are far more widowed women than men; and that men are more likely to enter into another relationship than women.

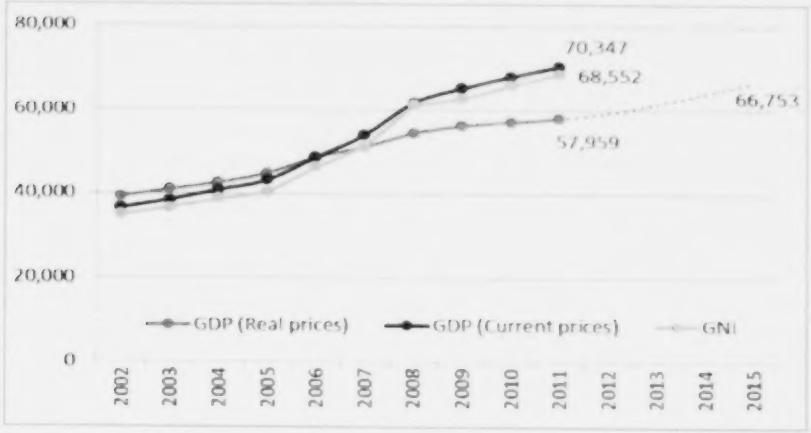
26. The 2009 Census of Vanuatu shows that the total number of private households is 47,582. The average household size in 2009 was 4.8, a decrease since 1999 when there was an average of 5.1 people per household. More than 10% (25,451) of all people that live in private households live in households with 10 or more people. It indicates a higher household size in rural areas than in urban areas.

2. Economic structure

27. Vanuatu has had one of the best performing economies among the Pacific Island Countries in the recent past. From 2007 until 2011 real (constant) Gross Domestic Product (GDP) increased by an average of 3.6% each year (VNSO, 2012) with GDP per capita estimated to be 286,844 Vatu in 2011, an increase of 1.3% over 2010. The estimated real GDP growth rate for 2013 is 3.6% due to projected increases in the services sector from tourism related investment and investment in major construction and engineering projects for outer island transport (see fig. VI).

Figure VI

Gross Domestic Product (current and constant 2006 price) and Gross National Income (GNI), million Vatu, 2002–2015



Source: VNSO, 2012.

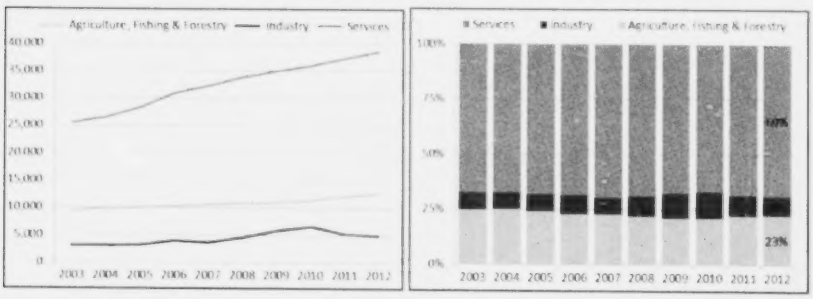
28. The VNSO released estimates of Gross National Income (GNI) in 2011 at 68,552 million Vatu (fig. VI). This compares with a current GDP of 70,347 (see fig. VI).

29. The tourism, telecommunications, airline industries, and to some extent construction, have continued to grow due to various policy initiatives and other contributing external factors (Pacific Island Conference Report, 2010). Government policy also promotes agricultural production, while providing an environment conducive to private sector-led economic growth and investment in infrastructure particularly in rural areas and to promote tourism as a mainstay of the economy.

30. Agriculture makes a considerable contribution to GDP in the export of commodities and the subsistence farming systems (own account production) in most rural communities. The services sector is the largest contributor to overall GDP, constituting public administration, retail trade, hotels and accommodation, and finance and investment. It is estimated that tourism-related activities make up 45% of economic activity (Vanuatu Reserve Bank Annual Report, 2009).

Figure VII

Main components of GDP (industry or economic activity), Vanuatu: 2009



Source: VNSO, 2009.

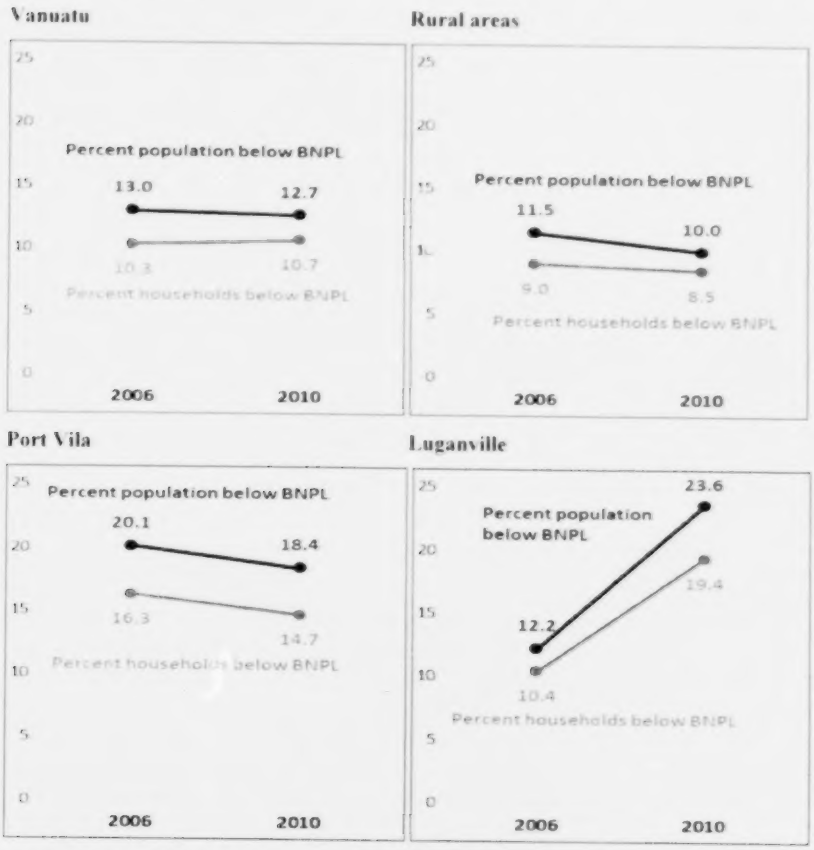
31. In 2006 per capita income was estimated from the Household Income and Expenditure Survey (HIES) to be 11,290 vatu per person per month, or $US 112.90 per person per month, (based on the household expenditure or consumption approach, where household expenditure is equated to a household's regular income). The 2010 HIES estimated per capita income to be 15,400 vatu per person per month or US$ 4.80 per capita per day. Income is not used because of difficulties in deriving accurate estimates from intermittent economic activities. Expenditure is derived at the household level so per capita measures assume that the expenditure is shared equally amongst all household members. In 2006 there were considerable subnational variations, from a low of 7,500 vatu per person per month (about US$ 2.50 a day) in Torba province to 17,800 vatu per person per month in Port Vila, or about US$ 5.93 per day. In 2010 in Torba, again the lowest province at 11,100 vatu per person per month ($US 3.46 per capita per day), to 20,300 vatu per person per month, or US$ 6.32 per capita per day, in Port Vila, again the lowest region.

32. In 2006, 50% of household consumption expenditure was on food; 10% on household operation and 8% was on miscellaneous goods and services, which includes health and education. This compares with 2010 where 56% of household expenditure was on food, 14% on household operation and 5% for miscellaneous. In 2006, 64% of all households in Vanuatu had some expenditure on educational goods and services, and monthly spending on education represented 6% of total monthly cash expenditure. The total estimated household annual expenditure on education was 95.6 million vatu in 2006 and 113.9 million vatu in 2010. The proportion of households with education expenditure decreased to 60% in 2010 and education represented 3% of total expenditure.

33. In 2006 the national average incidence of basic needs poverty, as measured by the Head Count Index (HCI) was estimated at 10% of households, or 13% of the population, while 6% of households and 7% of the population were not spending enough to acquire a basic nutritious diet. The same method was applied to develop the poverty estimates from the 2010 HIES data, where the incidence of basic needs poverty was basically the same as in 2006 at the national level. Separate poverty lines were developed for Port Vila, Luganville and rural areas with the highest overall levels of poverty in Port Vila with 16% of households and 20% of the population — one in five people — experiencing difficulties meeting day-to-day payments for food and other basic needs costs (costs for housing, household operation and supplies, education, health, clothing, transport and so on) (see fig. VIII). The 2010 analysis shows that poverty has decreased in Port Vila and rural areas but increased in the other urban center of Luganville where larger household sizes in general, and especially amongst the less affluent, are evident in the poverty analysis results. In 2011 the minimum wage was increased and the impact of this on the incidence of poverty will not be known until late 2013 when the analysis of a 2012–13 household survey will be completed.

Figure VIII

% households and population below the basic needs poverty line, region, Vanuatu: 2006 & 2010



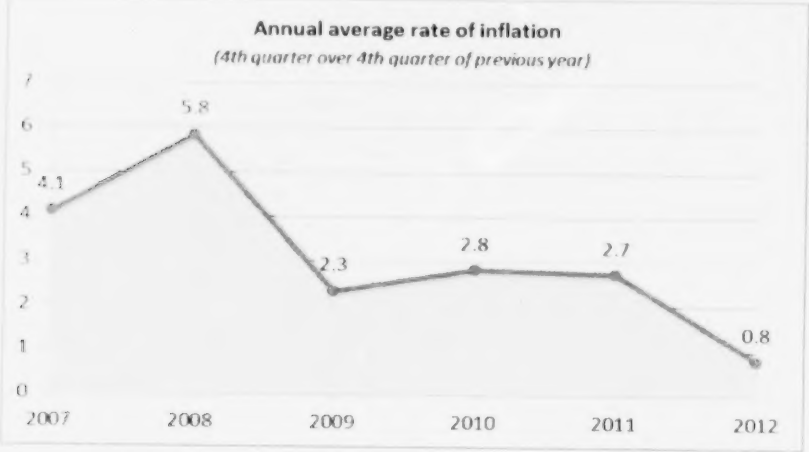
Source: VNSO, 2006 & 2010 Household Income and Expenditure Survey

34. Figures from 2006 for the Gini Coefficient, a measure of inequality, indicate that the level of inequality in Vanuatu was high but approximately the same in all areas except for Port Vila. Nationally the Gini coefficient was estimated to be 0.41 for household expenditure, the same in Luganville (0.41) and 0.40 in rural areas compared with 0.46 in Port Vila, showing the very wide differences in per capita expenditure between the poorest and better-off households. By 2010 the household expenditure Gini Coefficient had decreased to 0.25 in Port Vila, 0.28 in Luganville and 0.31 in rural areas.

35. Inflation has been relatively low, and stable, since 2008 and the series of global shocks which increased the prices of imported items. Annual inflation, as measured by the Consumer Price Index (CPI) decreased from 2.7% in 2011 to 0.8% in 2012 (see fig. IX). The main contributing causes for the increase in CPI over the year was due to higher prices for miscellaneous, clothing and footwear, household supplies, recreation, food and education, due to increases in women's clothing, furniture and furnishings, recreation, dairy and related products and tertiary education. The increase was offset by lower prices for transportation, communication, health, and housing and utilities. Forecast for inflation in

the upcoming quarters is still expected to remain within the bound of Reserve Bank of Vanuatu target range of 0–4%, generally reflecting the weak international commodity prices.

Figure IX
Consumer Price Index, Vanuatu: 2007–2012



Source: VNSO, 2013.

36. The RBV and the Ministry of Finance and Economic Management (MFEM) maintain close monitoring and supervision of a conservative government fiscal and macroeconomic policy combined with prudential management. Fiscal policy priorities are to maintain relatively low levels of debt (domestic and international) and high reserves with minimal inflationary pressure from fiscal policies.

37. At the end of calendar year 2012 (also financial year) the Government recorded a net operating balance of 165.7 million Vatu, almost half of the operating balance surplus of 2011 of 298.9 million Vatu. The main source of Government revenue is taxes on goods and services which contributed 74% of Government revenue in 2012. Just over half, or 57%, of Government non-tax revenue is from donor grants in 2012. Over half of government expenditure, or 54%, went to compensation of employees in 2012 and a further 26% of expenditure was for goods and services (or operational expenditure).

Table 2
Summary of government revenue and expenditure, 2009–2012

Year	*Tax Revenue*	*Non-Tax Revenue*	*Total Revenue*	*Expenditure*	*Net Operating Balance*	*Net lending borrowing*	*Debt service % of expenditure*
2009	10,872	6,028	16,900	13,272	3,628	-535	2.4%
2010	11,089	5,619	16,707	15,109	1,599	-1,708	2.2%
2011	11,630	4,103	15,733	15,434	299	-1,582	2.6%
2012	11,998	3,763	15,761	15,595	166	-707	3.0%

Source: Department of Treasury, 2013.

38. The Government has bilateral loans from the Caisse française de Developpement Bank and the Government of China, while multilateral lending agencies are the Asian Development Bank, the European Investment Bank and International Development Assistance.

39. To finance needed public investment, social spending and maintenance, without recourse to higher debt in the longer run, the Government will need to mobilize additional resources, and the IMF recommends that this come from domestic sources. The IMF notes that government-led reform to enhance completion and improve the effectiveness of the civil service is needed as well as the active promotion of private sector investment, especially in tourism and agriculture.

3. Social and cultural structure

Health

40. There are five main hospitals in Vanuatu, with a number of health centres (29), dispensaries (105) and Aid-posts (256) which offer different levels of medical care and medication. In 2010 the MoH reported that there were 3,363 births which occurred inside the health system and with traditional birth attendants, and 4,440 in 2009. The difference between the MoH and the Census estimates is explained by births occurring outside the coverage of the mostly public-run health system and incomplete coverage of births in the health information system.

Table 3
Health facilities in operation in 2011 by Province

Province	*No. of Hospitals*	*No. of Health centers*	*No. of Dispensaries*	*No. of Aid post*	*No. of MCH Clinics*	*Total Health facilities*
Torba**	0	3	7	25	1	36
Sanma	1	6	22	51	2	82
Penama	1	6	23	51	2	83
Malampa	1	9	19	44	2	75
Shefa	1	4	19	37	3	64
Tafea	1	1	15	48	2	67
Total	5	29	105	256	12	407

Source: MOH.

** Torba Province opened a Hospital facility in 2011 that is yet to be fully functional.

41. In the absence of an effective registration system, estimates and rates for births and deaths are from the VNSO or other specialized surveys. The information management system of the Ministry of Health (MoH) underwent a major redesign in 2012, after coverage from rural health centres, dispensaries and aid posts declined to such a low level that the information being collected was not usable from 2010 onwards in certain provinces and for certain types of clinical information. The information systems of the two main referral hospitals continued to operate. Results from the new health information system (HIS) for rural health centres, dispensaries and aid posts are currently being checked and reviewed prior to the first release of statistical information (from 2013). In the absence of accurate statistics to use for incidence and prevalence of conditions this information was collected in a number of specialized surveys conducted by the MoH.

42. In Vanuatu, Malaria and Tuberculosis (TB) are still a major public health concern among communicable diseases along with Sexually Transmitted Infections (STIs), Acute Respiratory Tract Infection (ARI), Diarrhea and Viral Hepatitis. Other major concerns include epidemic risk diseases of dengue fever and measles. For malaria, the Annual Malaria Parasite Incidence (API) decreased from a 2003 baseline of 73.9 positive cases per 1,000 inhabitants to 9 per 1,000 in 2011. This remarkable decline purports possible elimination of malaria from Vanuatu by 2030, beginning in Tafea Province by 2014. The prevalence of Lymphatic Filariasis has been maintained at 0% in high-risk areas in 2010 through introduction of mass drug administration. The incidence of diarrhea is decreasing due to programs of proper water supply, safe food handling practices and hygiene practices. Tuberculosis, which is another national concern, is difficult to control due to poor completion rates of medications by patients, resulting in a high proportion of reoccurring TB cases every year. TB testing has expanded in geographic coverage so it is difficult to conclude that the increasing incidence rates are the result of a true increase in the rate of TB infection or whether this is due to the expanded texting of the program.

43. Both communicable and non-communicable diseases (NCDs) are a health priority in Vanuatu: the so-called "double burden" of disease faced by many developing countries. Early uptake of medical services is low and all too often medical care is sought from a MoH facility as a last resort, making it too late for effective treatment and control. Diabetes and Hypertension rates are increasing since the first comprehensive data collection in 1997. Hospital data from the MoH of crude incidence rates of selected NCDs per 100,000 population aged 25 years and over show that the rate for malignant neoplasms for women is almost double that of males at 121 per 100,000 in 2009, compared with 76 for males. In 2009 males were slightly more likely to suffer from circulatory diseases, with an incidence rate (hospital records only) of 442 per 100,000 compared with 407 per 100,000 for females. Women were slightly more likely to suffer from Diabetes Mellitus than men, with an incidence rate of 127 per 100,000 compared with 119 per 100,000 for men (Secretariat of the Pacific Community (SPC). NCD Statistics for the Pacific Islands Countries and Territories 2010). In 2011 the Vanuatu STEPS survey found that women and men had about the same percentage, with raised fasting blood glucose or currently on medication for raised blood glucose at 21%.

44. The 2009 Census collected information on behaviors with potential threats to health and it was found that 45% of males and 4% of females reported to be smokers of tobacco products; 17% of males and 3% of females reported to drink alcohol; and 53% and 8% of males and females drank kava. In 2011 the STEPS survey rates were much higher for tobacco use and 62% of males and 20% of females currently smoked tobacco, but lower for alcohol consumption, with 12% of men and 2% of women reporting that they currently drink.

45. The 2011 STEPS nationwide survey of chronic disease risk factors in Vanuatu was carried out in 2011 and found that there is a high prevalence of risk factors that contribute to non-communicable diseases (NCD), which increase with age and are highest in the 45–54 age group. The four categories of the NCDs are cardiovascular disease and stroke, diabetes, cancer, and chronic pulmonary respiratory diseases. The four risk factors that are largely responsible for causing NCDs are use of tobacco, unhealthy diet, physical inactivity or lack of exercise, and harmful use of alcohol. In Vanuatu the prevalence of these risk factors is high, implying an increased health burden due to NCDs in years to come. Nearly half of all women, 43%, lack physical exercise, and 21% of men. Forty-six percent, nearly half of the men, are tobacco users and, encouragingly, only 4% of women are tobacco users. Although the number of alcohol users is comparatively small, with 12% of men and 2.4% of women recorded, this figure is inflated by the use of kava figures which show that 68% of men and 18% of women drink kava. Based on the combination of risk factors, the

results were used to predict the risk of a cardiovascular event and it was found that 11.4% of men and 4.9% of women have a 30% or more risk of a cardiovascular event in 10 years.

46. Globally, under nutrition is the underlying cause of 3.5 million child deaths and accounts for 35% of the disease burden in children under five years of age (WHO, 2009). In 2007 in Vanuatu, 16% of children under five years of age and moderately underweight (2% severely underweight), 20% stunted (7% severely stunted) and 27% were below the National Center for Health Statistics (NCHS) reference for their age and height (Vanuatu Millennium Development Goals Report (MDG), 2010). The 2007 Vanuatu National Nutrition Survey (VNNS) reported that there were higher rates of malnutrition and overweight children in urban than in rural areas. It was also reported that boys (18%) were slightly more likely to be malnourished than girls (13%). The MoH monitors the weight of children aged under five years and there are around 1,500 cases seen a year, with a decreasing proportion that are re-visits. The MoH recognizes that this is a problem that it must work with other agencies to redress, citing rising food costs, inappropriate food choices, as contributing factors. The increasing numbers of working mothers and lack of knowledge among young mothers about prolonged breastfeeding and proper weaning are other possible reasons.

47. Globally, boys are more likely to die under the age of five years than girls are. There are some differences between girls and boys in terms of access to key elements of care during childhood. The differences are not generally systematic or uniform within regions or countries (WHO, 2009). The Vanuatu Census of 2009 indicates that the total number of children ever born alive is 189,333 with total population numbers of 36,721 and 152,612 in urban and rural areas respectively. Based on the 2009 Census, the infant mortality rate (IMR) is estimated at 21 (infant deaths per 1,000 live births) with 22 for males and 19 for females. This estimate is lower than the 1999 levels, when it was 27 and 26 for males and females respectively, and the trends in infant and child mortality are shown in table 2 and figure 10.

Table 4
Child Mortality Indicators, per 1,000 live births, 1989–2009

	1989	*1999*			*2009*		
Indicator	*Total*	*Total*	*Male*	*Female*	*Total*	*Male*	*Female*
Infant mortality rate(IMR)	45	27	27	26	21	22	19
1 to 5 mortality rate	13	6	6	5	4	4	3
Under 5 mortality rate (U5MR)	58	32	33	31	24	26	22

Source: VNSO, 2009 (Population Census based indicators).

48. The MoH reports that in 2009 less than 1% of deliveries in clinics and dispensaries were to mothers aged less than 15 years of age, 7% of deliveries were to mothers aged 15–18 years and 93% were aged 19 years and over. This was a slight improvement over 2008, where 9% of deliveries in clinics and dispensaries were to mothers aged 15–18 years and 91% were aged older than this.

49. The Vanuatu Multiple Indicator Cluster Survey (MICS) of 2007 reported that 38% of women, married or in union between the age of 15–49 years were using contraceptives, of which 37% were using modern methods and nearly 2% were using traditional methods. The most popular contraceptive method used is the pill (16%), followed by injectable (11%), and female sterilization (6%). The contraceptive prevalence rate increased to a rate of 48% women aged 30–34 years and decreased to a rate of 24% women aged 45–49 years. Urban women were more likely to use family planning than rural women. The proportion of

women using any method increased from 21% (women with no education) to 39% (women with primary education) and 42% (women with secondary education). The 2007 contraceptive prevalence rate (CPR) of 38% was debated as being too high in the context of the annual number of births and population growth rates. A Demographic and Health Survey (DHS) will be conducted in late 2013 to verify the 2007 CPR and derive estimates for the unmet need for contraception.

50. According to a United Nations Children's Fund (UNICEF) baseline report on unprotected sex among Vanuatu youth, it was reported that attitudes toward condom use involve complicated and strong cultural beliefs. One of the main reasons for not using condoms is due to religious beliefs (UNICEF, 2010). The 2008 survey result of Vanuatu Young People's Project about family planning for Port Vila Vanuatu youth reported that about 65% of young people have knowledge about family planning but only 38% reported using contraceptives, with 77% of those respondents using condoms as their main type of contraception. The MoH recorded 17,909 users of family planning products in 2011; 4,590 males (condoms and sterilization) and 13,319 females. The users of the common modern methods of contraception used in Vanuatu are namely: female sterilization, male sterilization, the pill (Microlut and Microgynon), intrauterine contraceptive device (IUCD), Depo Provera and Condom (both male and female).

51. Malaria is a major contributor to the overall burden of disease in Vanuatu and is therefore a public health concern, especially in rural areas. Since 2004, the Government and donor partners (AusAID and GFATM) with support from the World Health Organization (WHO), Pacific Malaria Initiative Support Centre (PacMISC), and South Pacific Community (SPC) have implemented policies to control and eliminate malaria. Major milestones include scaling up activities for the national wide vector control program with the distribution of long-lasting insecticidal nets (LLINs) and the selective indoor residual spraying (IRS) program piloted in Tafea Province. The second major milestone was the deployment of rapid diagnosis testing kits for malaria and the use of artemether-lumefantrine to improve case management.

52. In 2011 a national survey was conducted to measure malaria prevalence and prevention behaviors. Among the high-risk groups, 66% of children aged under age five years were reported sleeping under LLIN on the night before the survey; increasing to 81% in households owning at least one LLIN. For pregnant women, 51% were sleeping under an LLIN, increasing to 73% in households owning at least one LLIN. Eligible women showed correct knowledge of preventive measures with 99% of eligible women identifying mosquito bites as the main cause of malaria and 84% reporting the use of mosquito nets as the malaria preventive method, while 21% reported indoor residual spray as an effective prevention measure (this rate is much lower because indoor residual spray is only used in specific sites on the island of Tanna in Tafea province). An important was that 93% of these women recognized fever as a symptom of malaria, and believed that malaria can kill. In addition, 40% had seen or heard about the current first-line recommended malaria treatment (Coartem). There were no differences in knowledge between urban and rural areas, except that rural respondents had slightly better knowledge of the current first-line recommended malaria treatment (45% versus 33%); perhaps because rural communities have received awareness programs or had a malaria episode and accessed treatment as malaria is more prevalent in rural areas. The survey results show that Vanuatu has achieved low malaria prevalence and transmission even with limited coverage of malaria control interventions and integrated vector management activities. These programs are being maintained and scaled up in other areas with continued support from WHO and PacMISC.

53. Vanuatu adopted the regional initiative of WHO to eliminate measles in 2012. A review of the immunization program in 2010 indicated coverage at 80% and an increase to 92% in 2011. Factors identified as contributing to non-completion of vaccination schedules

included logistics difficulties for children in remote rural areas to access clinics, population mobility, and parents' and caregivers' beliefs/misconceptions regarding vaccines.

54. No Pacific Island country has a "liberal policy" for procurement of abortion, meaning that, although abortion may be legal, it cannot simply be procured upon request (WHO, 2009). There is no data yet available within the Ministry of Health regarding medical termination of pregnancy.

55. Globally, HIV is the leading cause of death and disease in women of reproductive age. Of the 30.8 million adults living with HIV in 2007, 15.5 million were women (WHO, 2009). In Vanuatu, five people have been diagnosed with HIV (3 females and 2 males; 4 adults and 1 child under 15 years). (UNGASS Country Progress Report, 2010). Since 2007, there have been no new reported and confirmed cases of HIV.

56. A large proportion of mortality occurs outside the medical system in Vanuatu, with the high proportion of deaths occurring in private homes, making cause of death information on death registration certificates extremely difficult to classify and analyze; as an indication of mortality trends the deaths occurring in government hospitals are used. For example, in 2008 the MoH recorded 139 deaths in its hospitals: 57% were males, 40% females and 3% of deaths had no sex reported. The 2009 Census estimated 1,260 deaths in 2009 (based on life tables). The 10 leading causes of death recorded in the hospital system for 2006–2008 show the increasing trend for NCD-related mortality, with septicemia, heart disease and cancers major causes of death for both women and men.

Table 5
Ten leading causes of hospital deaths and sex: 2006–2008

	Year and sex					
	2006		*2007*		*2008*	
Disease	*Male*	*Female*	*Male*	*Female*	*Male*	*Female*
Resp. tuberculosis, not confirmed bacteriologically or histologically					3	0
Other septicaemia	6	6	5	4	3	1
Malignant neoplasm of stomach	3	1				
Malignant neoplasm of liver & intrahepatic bile ducts			4	1		
Malignant neoplasm of bronchus & lung	3	1				
Malignant neoplasm of cervix uteri					0	4
Secondary malignant neoplasm of other sites			0	6		
Non-insulin-dependent diabetes mellitus	5	0	3	2		
Meningitis due to other unspecified causes					2	2
Acute myocardial infarction	5	2	7	0		
Cardiac arrest	5	3	3	4	2	5
Heart failure	6	2	5	2	2	3
Stroke, not specified as haemorrhage or infarction	2	6	3	3	4	6
Pneumonia, organism unspecified	5	3	3	4	1	3
Hepatic failure, not elsewhere classified					7	1
Chronic renal failure			5	4	3	2

Disease	Year and sex	
Disorders related to short gestation and low birth weight, not elsewhere classified	4	2

Source: Ministry of Health

Education

57. The education system consists of preschool or early childhood education (ECE) for children aged 3–5 years; primary Years 1–6 (aged 6–11 years); and secondary school Years 7–13 or Year 14 in two French Senior Schools (aged 12–19 years). The Ministry of Education (MoE) conducts an annual Census of all preschools and schools in Vanuatu to monitor its policies towards increasing access to and quality of education in Vanuatu. In response to decreasing enrolment rates, since 2010 the Government, with the support of donors, has implemented a policy of "fee free" education for primary schools from Year 1–6, and to Year 8 in some "centre schools" offering primary education up to Year 8. This has equated to an additional budget of about 200 million vatu a year for the fee free primary education policy and has resulted in increased enrollment rates for both girls and boys by decreasing the dropout rate. In 2012 for primary Years 1–6 the Net Enrolment Rate (NER) was 88% and the Gross Enrolment Rate (GER) was 121%.

58. Primary enrolment increased by 13% between 2009 to 2012 as similar to female enrolment increased by 14% during the same period. The Gender Parity Index (GPI) of the net enrollment rate (NER) and gross enrollment rate (GER) by level shows no real difference between girls and boys enrolled in school, and differences in enrolment reflect the sex composition of the population (table 6 and fig. 10).

59. The challenges the MoE is addressing is ensuring that children, boys and girls, enter their life of education at age three years in ECE and progress to Year 1 of primary when they are aged 6 years. The NER for ECE for both girls and boys was 44% in 2012 compared with 38% in 2008, so some progress is being made to increase ECE enrolment. It will take time for the results to affect "correct age" enrolment in Year 1, with 41% of 6-year-old girls attending Year 1 and 37% of boys in 2012.

60. The number of places for senior secondary education is limited and the MoE is working to increase classrooms, train teachers, and provide resources to increase access to senior secondary education. The NER for secondary year 7 onwards in 2012 was 32% for girls and 27% for boys.

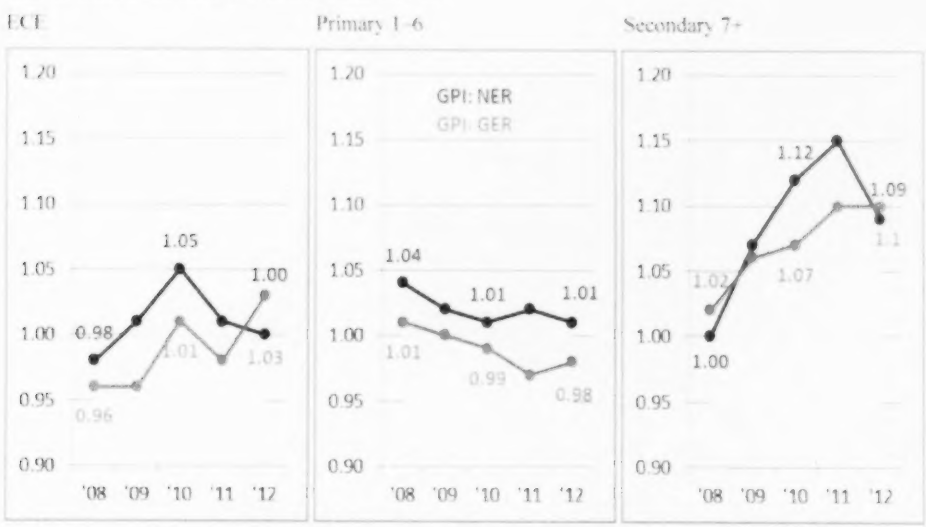
Table 6
Enrolment by province and level of education: 2011–2012

		ECE		Primary 1–6		Secondary 7–	
Year	Province	Male	Female	Male	Female	Male	Female
2011	Torba	288	276	869	799	265	285
	Sanma	1,481	1,408	4,636	4,066	1,870	1,788
	Penama	765	700	3,057	2,733	1,071	1,119
	Malampa	1,020	894	3,767	3,319	1,255	1,205
	Shefa	1,344	1,254	5,913	5,456	3,447	3,509
	Tafea	1,122	1,049	4137	3,600	1,123	1,127
	Vanuatu 2011	6,020	5,581	22,379	19,973	9,031	9,033

		ECE		Primary 1–6		Secondary 7+	
Year	Province	Male	Female	Male	Female	Male	Female
2012	Torba	283	314	896	831	282	276
	Sanma	1,620	1,529	4,841	4,239	1,868	1,853
	Penama	838	778	3,097	2,729	1,020	1,087
	Malampa	1,045	931	3,876	3,407	1,160	1,152
	Shefa	1,826	1,633	6,068	5,779	3,559	3,708
	Tafea	1,366	1,225	4,298	3,840	1,177	1,097
	Vanuatu 2012	6,978	6,410	23,076	20,825	9,066	9,173

Source: *Ministry of Education*

Figure X
GPI of GER and NER, school level, 2008–2012



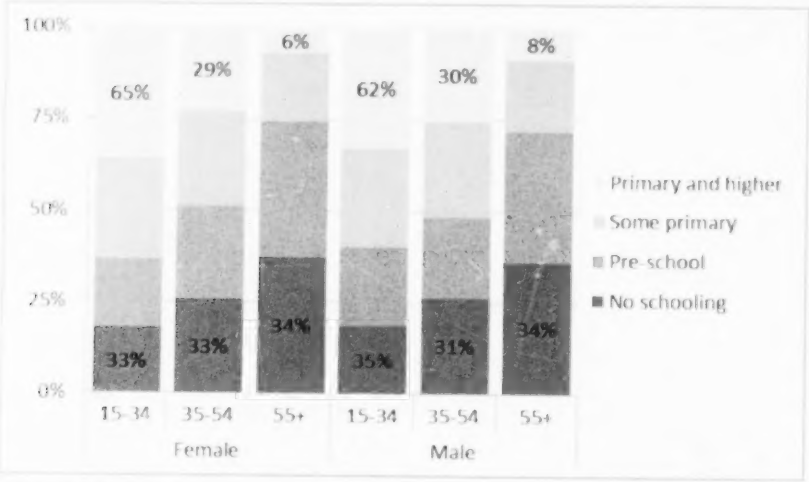
Source: Ministry of Education. Note that vertical axis starts at 0.9.

61. The 2012 MoE survey derived a student-teacher ratio of 14.8:1 in ECE, 25.3:1 in Primary Years 1–6, and 18.4:1 at secondary Year 7 onwards for all schools regardless of funding authority (government, government assisted church schools, church, community and private). For schools receiving government funding only, the student-teacher ratios were slightly higher at 26.1:1 for primary Years 1–6 and 20.7:1 for secondary Year 7 onwards. The MoE has a programme to increase the quality of education in government schools through teacher certification and expanded teacher in-service training. Government schools have slightly higher proportions of certified teaching staff compared to other funding authorities, with 64% of primary teachers certified and 59% of secondary teachers certified.

62. The 2009 Census indicates that the adult literacy rate (self-reported by persons aged 15 years and over) is 85%, with 86% and 84% literacy rates for males and females respectively. The self-reported literacy rate of those aged between 15–24 years is 92%, with 92% and 93% literacy rates for males and females respectively. This literacy rate is the proportion of the population who say that they are able to read and write simple sentences in one or more of the three official languages or other local languages in Vanuatu, bearing in mind that most vernacular languages have no written form. It is useful to analyze this in the context of the proportion of each sex who have never attended schooling or do not have a full course of primary education. The proportion of population aged 15 years and older with no education is 17% for females and 15% for males; increasing to 34% for both males and females aged over 55 years (see fig. XI).

Figure XI

Proportion of women and men aged over 15 years and broad level of schooling, Vanuatu: 2009



Source: VNSO, 2009

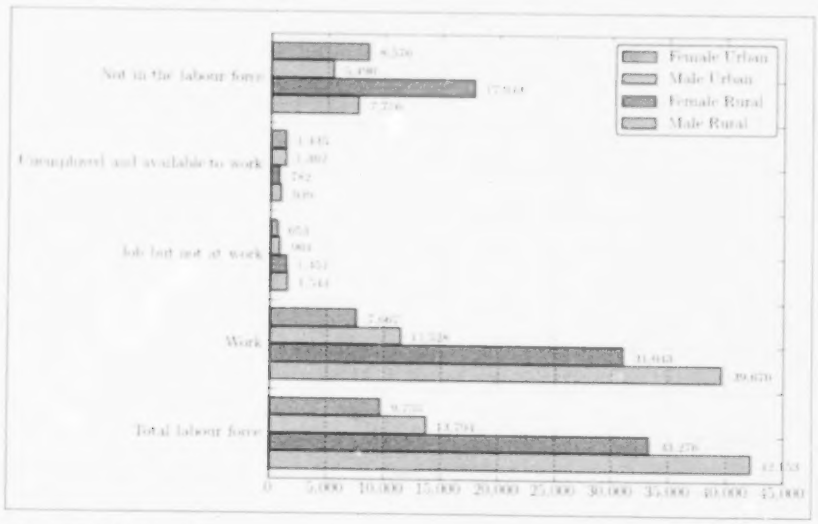
Employment and livelihoods

63. According to the Vanuatu census of 2009, the unemployment rate in Vanuatu is 4.6%, with 4.1% and 5.2% unemployment rates for males and females respectively. In the Census, unemployed is defined as those who do not have a job, are looking for a job and would be available to work. The lowest unemployment rate is in the provinces of Torba and Penama, while Shefa has the highest unemployment rate.

64. The employment-population ratio is 30%, with 37% and 23% for males and females respectively. The employment-population ratio is double in urban than in rural areas. Torba province has the lowest employment-population ratio, while Shefa province has the highest.

Figure XII

Labor force status of persons aged 15 years and over, by sex, and in urban and rural areas, Vanuatu: 2009

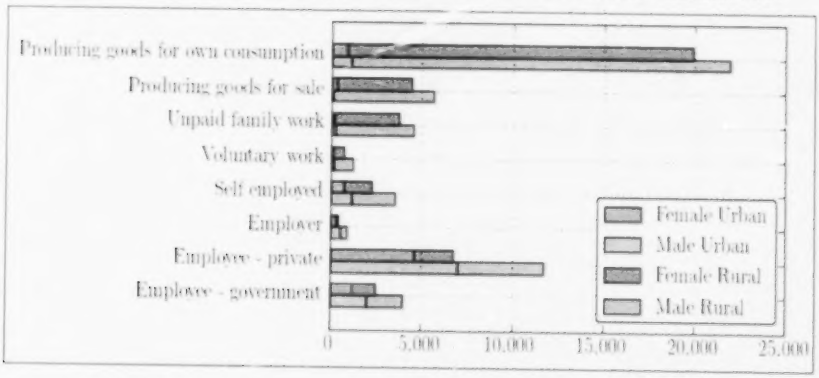


Source: VNSO, 2009

65. The national labor force participation rate is 71%, with 80% and 61% for males and females respectively. The labor participation rate for females did not exceed 71% at any age, while that of males was more than 90% at ages 30–49. The rural areas have a higher labor force participation rate than in urban areas because of the high proportion of the rural working age population engaged in subsistence agricultural production. There is a low participation rate for the population aged 15–19, when youth are typically completing their education or looking for work, and an increased rate between the ages of 30–54. A large proportion of the population aged 60 years and older is still economically active (see fig. XII).

Figure XIII

Total population group by industry, sex, and urban and rural areas, Vanuatu: 2009



Source: VNSO, 2009

66. In terms of employed population by type of employee, about 47% of paid employment is working for private enterprise, 24% for produced goods for sale, 15% in public service and 14% is self-employed. The vast majority of employees are working people engaged in the agriculture, forestry and fishing industry (57,191 total employed population), followed by those in wholesale and retail trade, repair of motor vehicles (7,746), and public administration and defense, compulsory social security (7,075). While domestic workers were dominated by females, most of all other industry groups employed more males than females. As defined by VNSO, domestic workers are included in the activities of households as employers, undifferentiated goods- and service-producing activities of households for own use, such as domestic workers, gardeners and private home security personnel (see fig. XIII).

67. In terms of employed population by occupational group, 53% of all employed population is in the category of skilled agricultural forestry and fishery workers, which includes subsistence and market farmers. The second largest occupational group is elementary occupations (13%) such as unskilled laborers, followed by service and sales workers (9%), and craft and related trade workers (8%) Female employees dominated the elementary occupations, the service and sales workers, and clerks and service workers; all other categories of occupational group are dominated by males.

68. The Trade Unions Act [Cap 161] of 1983 defines trade union as an organization which either consists of not less than 20 workers whose principal objective includes the regulation of relations between workers and employer, or a federation registered trade union (part I, section 1, Trade Unions Act). At present there are only two active registered trade unions, namely the Vanuatu National Workers Union (VNWU) and the Vanuatu Teacher's Union (VTU). The sole national trade union center in Vanuatu is the Vanuatu Council of Trade Unions (VCTU) with which the two active unions are affiliated. The VCTU is affiliated with the International Trade Union Confederation (ITUC).

B. Constitutional, political and legal structure

1. Constitutional structure

69. Pre-independence. During the pre-independence era from 1906 until independence on 30 July 1980, each of the administering countries, Britain and France (Vanuatu was jointly administered) made laws for its own nationals and optants and together they made laws for indigenous New Hebrideans and for all other residents.

70. The following are the laws made from pre-independence until independence:

(i) **British Laws**: Applied to British nationals and the nationals of other countries who opted to be subject to British laws, called optants. These laws comprised the following:

- **British Acts of Parliament and subsidiary legislation** — which were stated to apply to overseas territories;
- **British Acts of Parliament of "general application"** — i.e.: whose terms were not confined to England, except to the extent that they were inappropriate to the circumstances of the country. Statutes of general application passed after 1 January 1976 did not apply;
- **English rules of common law and equity** — which applied except to the extent that they were inappropriate to the circumstances of the country;

- **Queen's Regulations** — made by the British High Commissioner of the Western Pacific (situated initially in Fiji and later in Solomon Islands) and by the British Resident Commissioner in the New Hebrides;

(ii) **French Laws**: Applied to French nationals and the nationals of other countries who opted to be subject to French laws, called opt ants. These laws comprised of the following:

- **French Acts of Parliament and subsidiary legislation** — which were stated to apply to overseas territories;
- **French Acts of Parliament and subsidiary legislation** — which were applied to the New Hebrides by the French High Commissioner of the Pacific, who was stationed in New Caledonia;
- **Regulations** — made by the French High Commissioner of the Pacific;

(iii) **Joint Laws**: After 1977, Resolutions passed by the elected Representative Assembly, which was established in response to the growing movement for independence, were, when approved by the Resident Commissioners, enacted as Joint Regulations:

- **Joint Regulations** — made jointly by the British and French Resident Commissioners in New Hebrides applied to all residents of the New Hebrides, including indigenous New Hebrideans.

71. Post-Independence. Since Independence, on 30 July 1980, the laws of Vanuatu comprise of the following:

- **Constitution of Vanuatu** — the supreme law;
- **Acts of Parliament of Vanuatu**;
- **Joint Regulations in existence on 30 July 1980** — which continue in force until repealed by the Vanuatu Parliament (VU Const. s. 95, cl. 1);
- **British and French laws in existence on 30 July 1980** — including Acts of Parliament, subsidiary legislation and English common law and equity, which continue in force until repealed by the Vanuatu Parliament (VU Const. s. 95 cl. 2);
- **Customary laws of Vanuatu** (VU Const. s. 95, cl. 3). (Patterson, University of South Pacific, 1999).

72. According to the World Bank (WB) 2010 gender and investment climate report, in practice, most lawyers and judges in Vanuatu have been trained in the English system, and English-based statutes and common law system is relied on. There has been recent criticism that there has been insufficient recourse to customary laws or French laws in court proceedings (Rousseau, Vanuatu Kaljoral Senta, 2009).

2. Political Structure

73. The 1980 Constitution recognizes Vanuatu as a parliamentary republican state, known as the Republic of Vanuatu. It uses the modified "Westminster Model" of government. The form of government is similar to other commonwealth countries but with French influence. The Head of State is called the President instead of Governor General. The local government regions of Vanuatu are decentralized. The process of decentralization began in 1994 with the passing of the Decentralization Act [Cap 230]. On March 2011 the Public Service Commission (PSC) commenced piloting the decentralizing of government services in Malampa province and has made progress in bringing the positions under the administration of PSC. In terms of constitution, the constitution of Vanuatu is entrenched. It can be amended by the votes of no less than two-thirds of all the members of Parliament at

a special sitting of Parliament at which three-quarters of the members are present (VU Const. art. 85).

3. Executive

74. **President**. The Head of the State is the President, and symbol of unity of the nation. (VU Const. art. 33). Any indigenous Vanuatu citizen qualified to be elected to Parliament shall be eligible for election as President of the Republic (VU Const. art. 35). The president is elected every five years by secret ballot by the electoral college consisting of Parliament and the Chairman of Local Government Councils. (VU Const. art. 34, 36). The local government councils referred to are the six local government regions of Vanuatu. The President of the Republic may be removed from office only for gross misconduct or incapacity, by the electoral college (VU Const. art. 36, cl. 2).

75. **Prime Minister**. The executive power of the people of the Republic of Vanuatu is vested in the Prime Minister (PM) and Council of Ministers (CoM) (VU Const. art. 39, cl. 1). At present, there are 12 ministers and 1 Prime Minister who make up the CoM. The PM is elected by a majority vote by the members of the Parliament. The PM in turn appoints the council of ministers, whose number, including the PM, shall not exceed a quarter of the number of members of Parliament (VU Const. art. 40, cl. 2). The Government of Vanuatu in June 2011 elected the 17th PM of the country.

4. Legislature

76. **Parliament**. The power to make laws lies with the legislative branch of the government. The legislature is a unicameral parliament with 52 seats (VU Const. art. 15). The members are elected on the basis of universal franchise through an electoral system which includes an element of proportional representation (VU Const. art. 17, cl. 1). The term of service of an elected parliament is four years. Citizens of Vanuatu aged at least 25 years and above are eligible to contest elections (VU Const. art. 17, cl. 2).

77. **Electoral system** (VU Const. chapter 4, arts. 17, 18, 34, sect. 1). The Electoral Commission, which sits as a body composed of one chairperson and two members, administers elections in Vanuatu. All citizens 18 years and above are eligible to vote (VU Const. art. 4, cl. 2). The exercise of the right to suffrage is not mandatory. The procedures for national elections are provided for under the Representation of the People Act [Cap 146]. However, the procedure of elections for the local government council is provided for under the Decentralization Act [Cap 230] while the municipal election is governed by the Municipality Act [Cap 126].

78. The national election in Vanuatu is held every four years. However, the President has the discretionary power to dissolve parliament on the advice of the Council of Ministers (VU Const. art. 25 (3)). The next national election will be held on September 2012. The voting system is based on geographical region, which allows a degree of proportional representation. At present, Vanuatu is divided into 17 constituencies with 52 seats. Each constituency may have one to seven seats, depending on the population size of the constituency. Any qualified candidate may run for election. As of the reporting period of this report, the number of existing national political parties in the parliament is 15.

79. The Electoral Commission also administers the regulation and conduct of local government council election including the date of the election of elected members. The PM has the power by order to declare a local government region and a power to establish a Local Government Council (Decentralization Act [Cap 230] sect. 3 & 4). Each of the six local government council has different number of council seats. The total number of seats for the six provinces is 99, with the following number of seats per province: Penama (16 seats), Malampa (21) Shefa (18) Tafea (19), Sanma (18), and Torba (7).

80. The Electoral Commission, after consultation with the Minister (responsible for municipalities) determines date of the election of the municipal councillors who are elected every four years (Municipalities Act [Cap 126] part 3, subsection 7 (1)). The method of election for municipality is by ward system. The three existing municipalities in Vanuatu have their own boundaries and territorial wards. The municipality of Port Vila has four wards with a total number of 14 seats, while the municipality of Luganville has four wards with a total number of 13 seats. The municipality of Lenakel has been newly established and has nominated its own councilors.

81. In Vanuatu, according to Electoral Commission office (ECo) the distribution of legislative seats is not by party but by constituency. Each constituency is represented by size and number of the total population per geographical area. The highest number of seats among the constituencies is seven, followed by six, four, three, two and one seats (see table 7).

Table 7
Total number of seats per constituency, Vanuatu: 2008

Constituency	*Number of seats*
Banks/Torres	2
Santo	7
Malo/Aore	1
Luganville	2
Ambae	3
Maewo	1
Pentecost	4
Malekula	7
Ambrym	2
Paama	4
Epi	2
Tongoa	1
Shepherds	1
Efate	4
Port Vila	6
Tanna	7
Southern Islands	1
Total	**52**

Source: ECo, 2008

82. Political parties may be formed freely and may contest elections (VU Const. art. 14, cl. 3). In 2008, there were a total of 15 political parties, each with its own member representatives dispersed among the different constituencies in parliament, including four independent parties. The highest number of seats belong to Vanuaaka Party with 21% of the total seats, followed by National United Party (15%), Vanuatu Republican Party (13%) and Union of Moderate Party (13%) (see table 8).

Table 8
Total number of party members by political party and percentage, Vanuatu: 2008

Political Party	*No. of Party members*	*%*
Vanuaaka Party (VP)	11	21
National United Party (NUP)	8	15
Vanuatu Republican Party (VRP), Union of Moderate Party (UMP)	7 per party respectively	13
People's Progressive Party (PPP), Independent	4	8
Green Confederation (GREEN)	2	4
Vanuatu Progressive Republican Farmer Party (VPREP), Nagriamel Movement (NAG), People's Action Party (PAP), Melanesian Progressive Party (MPP), Vanuatu Family First Party (VFFP), Namnagi Aute (N/Aute), Vanuatu Leba Party (VLP), Shepherd Alliance (S/Alliance)	1 per party respectively	2

Source: ECo, 2008

83. Since independence in 1980, ECo reported that there was a total 58 women candidates who ran for national elections. Out of the 58 candidates, eight of the women candidates won a seat in the parliament; two of the eight candidates served for more than two terms. At present, after the 2012 general election, there are no female members out of the 52 members of the parliament (see table 10).

Table 9
Total number of women's participation in national elections since Independence, Vanuatu: 1983–2012

Year	*No. of Women Candidates*	*Elected*
1983	1	0
1987	2	2
1991	2	1
1995	7	1
1998	5	0
2002	7	1
2004	9	2
2008	15	1
2012	10	0
Total	**58**	**8**

Source: ECo, 2008

84. The electoral roll of the Electoral Commission of Vanuatu shows 156,2009 registered voters for the 2008 election. The Vanuatu Census 2009 had a population eligible to vote of 128,371 persons, 64,205 males and 64,166 females aged 18 years of age and above. VNSO estimates that since 2009 14,679 voters have become eligible to vote, 7,359 males and 7,320 females, while it is not possible to estimate how many voters have left (i.e. through migration or death) the roll.

85. Since the last election held in 2008, ECo reported that there were a total number of three election petitions filed by three different candidates who contested the election for parliament due to treating, bribery, and irregular conduct of registration of voters. As a

result, three new different elections were held for each of the complainants in the months of February, April and August of 2009, respectively.

86. The national election in Vanuatu was last held in October 2012; the next election will be held in 2016. The date for the elections for municipal council varies per municipality and provincial government council election also varies per province.

5. Media ownership

87. The Government owned and controlled the Vanuatu Broadcasting and Television Corporation (VBTC), which started as a corporation in 1992. The TV network operates in Port Vila and in Santo. However, the television news program in Santo is a recorded program from Port Vila which VBTC sent to Santo for viewing. In terms of radio network, the radio broadcasting called Radio Vanuatu operates throughout the islands of Vanuatu. Its radio short wave transmission also covers the regions of Papua New Guinea, Solomon Islands, Australia and New Zealand. Another radio broadcasting called Paradise FM operates 24 hours but only in Port Vila. There is also a provincial radio broadcasting called Hello FM that operates only in Santo. At present, VBTC has a television expansion program funded by the French Government with the aim of increasing its signal in the island of Santo, which will include the other islands in the northern area.

88. There are five local print media privately operating in Vanuatu, one daily newspaper and four weekly newspapers. The daily newspaper operates every day except Sunday. It was originally established under the name of Trading Post since 1994 and was changed to Daily Post in 2003. It covers Port Vila and other main centers throughout the islands of Vanuatu in coordination with Vanuatu Post. It is published in two languages, English and Bislama.

89. The four weekly newspapers operating in Vanuatu are the following: The Independent, The Vanuatu Times, Vanuatu Infos, and The Ni Vanuatu. Three of these newspapers are published in three languages, English, French and Bislama, while the Ni Vanuatu is published only in English and Bislama. The Independent started its operation in 2003 although it was formerly operating as Port Vila Press in 2000. Its main areas of distribution includes Port Vila, Lakaturo (Malampa), Lenakel (Tafea), and Saratamata (Penama) through the assistance of the cooperatives in the areas and arrangements are made with Vanuatu Post and Air Vanuatu. The Vanuatu Times was established in 2009 and is operating with its radio broadcasting called FM 107. It operates in Port Vila, Santo and other main center areas of the islands. The Vanuatu Infos is a free newspaper released every Friday and was established in 2005. It distributes its newspaper only in Port Vila and in Santo. The Ni Vanuatu, a mid week newspaper released every Wednesday was established in 2004 and operated only for a year but was revived in June 2011. Its main areas of distribution are Port Vila, Santo and North Efate.

6. Legal structure

90. **Judiciary.** The administration of justice is vested in the judiciary, which is subject only to the Constitution and the law. The function of the judiciary is to resolve proceedings according to law. If there is no rule of law applicable to a matter before it, a court shall determine the matter according to substantial justice and whenever possible in conformity with custom. Except for the Chief Justice, the judiciary is appointed by the President of the Republic acting on the advice of the Judicial Service Commission (VU Const. art. 47, cl. 1, 2).

91. Vanuatu is founded on traditional Melanesian values; hence, custom continues to influence its legal system. The constitution provides that customary law continues to have effect as part of the law of Vanuatu (VU Const. art. 95). The constitution also recognizes

the National Council of Chiefs who are elected by the Island Council of Chiefs and the urban council of chiefs and hold meeting once every year (VU Const. art. 29, cl. 1, 3). It has general competence to discuss all matters relating to custom and tradition and may make recommendations for the preservation and promotion of ni-Vanuatu culture and languages. It may be consulted on any question relating to tradition and custom, in connection with any bill before Parliament (VU Const. art. 30, cl. 1, 2).

92. **Courts**. The hierarchy of the courts in Vanuatu consists of three levels: inferior courts, superior court, and appeal court. The hierarchy of courts and its legal establishment are as follows:

- **Court of Appeal**. Established under article 50 of the Constitution: constituted from time to time, as the need arises, by two or more judges of the Supreme Court;
- **Supreme Court**. Established under article 49 of the Constitution and by section 28 of the Courts Act 1980 was replaced by the Judicial Services & Courts Act of 2000. The composition of the court is one judge sitting alone;
- **Magistrates Court**. Established under, and governed by the Courts Act 1980. They are presided over by a lay magistrate or Senior Magistrate appointed by the Judicial Services Commission. When hearing appeals from an island court, they must sit with two or more assessors knowledgeable in custom (Corrin Care & Newton, 1999);
- **Island Court**. Established by parliament under article 52 of the Constitution and by Island Courts Act (ICA) [Cap 167] of 1983. It is presided over by three Justices, of whom at least one must be a chief. At present there are 23 island courts in Vanuatu.

93. In general, under the ICA, island courts have jurisdiction to hear disputes in which all the parties are resident or being within the territorial jurisdiction of the court. The following are the island courts jurisdiction:

- **Criminal matters**. The court can hear matters involving an accused that committed any part of the offense within the jurisdiction (ICA s 7);
- **Civil matters**. If the plaintiff and defendant live in different territories, then the matter shall get heard in the court in whose territory the defendant is ordinarily resident. If the subject matter of the dispute extends across two jurisdictions a joint court will be set up (ICA s 8, 9, cl. 1);
- **Land matters**. It shall be heard by the courts in whose territory the land is situated (ICA Order No. 1 of 1990).

7. Non-governmental organizations

94. Since 2006, there is a total number of 136 recognized nongovernmental organizations in Vanuatu operating as non-profit charitable institutions. As a requirement for an NGO's operation, it has to register with Vanuatu Financial Services Commission (VFSC), which processes all NGOs registration in Vanuatu. The registration requirements include submission of three organization's name and upon approval of one organization's name by VFSC, submission of the organization's constitution and by laws, and a one time registration payment of VT 10,000.00. Other organizations may also affiliate with Vanuatu Associations of Non-Governmental Associations Organizations (VANGO) upon payment of an annual registration fee. VANGO was established in 1990 as a membership-based NGO acting as a coordinating body for NGOs in Vanuatu. It mandates are to strengthen the capacity of local NGOs and also to facilitate outreach development services to disadvantaged groups and people at the grassroots level. At present, there are existing 101 members of VANGO.

95. The Government has recognized the existence of the various NGOs in Vanuatu and has been working collaboratively with NGOs in the implementation of its programs. During the reporting period of this periodic report, a Memorandum of Agreement is under review between the Government and VANGO to ensure that government recognizes the rights of the NGOs and to support the independence of the members of the NGO sector (see table …).

Table 10
Total number of registered non-governmental organizations, Vanuatu: 2011

Year	*Total Number*
2011	18
2010	27
2009	29
2008	20
2007	21
2006	21

Source: VFSC, 2011.

8. Crime and administration of justice

96. According to the report of Vanuatu Police Force (VPF) there was no incident of violent death and life threatening crime in 2009. There were eight reported crimes of intentional homicide (3.8 violent deaths per 100,000, persons) in 2010. As of June 2011 there was only 1 crime reported (0.4 violent deaths per 100,000 persons) (see table 11).

Table 11
Incidents of violent death and life-threatening crimes reported per 100,000 persons

Incidents of violent death and life threatening crimes	*2009*	*2010*	*2011*
Incidents of Intentional Homicide	0	8	1

Source: VPF, 2011.

97. In 2009, a total of 1,243 people were arrested for violent and serious crimes (497.2 offenders arrested per 100,000 persons). In 2010 and as of June 2011, a total of 2,857 (1142.8 offenders arrested per 100,000 persons) and 593 (237.2 offenders arrested per 100,000 persons) were arrested for violent and serious crimes, respectively. The data only show the number of persons arrested. There is no data to show the classification of the type of crime (see table …).

Table 12
Number of persons arrested for violent or other serious crimes, Vanuatu: 2009–2011

	2009	*2010*	*2011*
Number of persons who were arrested for violent or other serious crimes	1,243	2,857	593

Source: VPF, 2011.

98. The reported cases of sexually motivated violence are categorized by Vanuatu police force as crimes against morality. In 2009, there were 49 cases reported while in 2010, there was an increase in the crimes reported (129) and eventually decreased as of June 2011 (33) (see table 13).

Table 13
Number of reported cases of sexually motivated violence, Vanuatu: 2009–2011

	Year		
Crimes Against Morality	*2009*	*2010*	*2011*
Act of indecency with a young person	2	4	1
Act of indecency without consent	2	10	2
Aggravated sexual intercourse with a child	0	3	0
Incest	4	9	5
Intentional Assault	0	6	1
Kidnapping	0	4	0
Publishing child pornography	0	1	1
Using child for pornographic purposes	0	0	1
Sexual intercourse with a child under care and protection	4	7	3
Sexual intercourse without consent	20	49	12
Threats to kill person	3	7	0
Unlawful sexual intercourse	14	29	7
Total	**49**	**129**	**33**

Source: VPF, 2011.

99. In 2010, the reported total number of sexual offenses in Port Vila were 126, followed by 101 detected offenses (investigation is complete and forwarded for prosecution), and 24 undetected cases (case is still under investigation). According to Family Protection Unit (FPU), there are also unreported cases, and the common reasons for victims failing to report such incidents are as follows:

- Victim was threatened by the offender;
- Victim is ashamed to be talked about in the community;
- Victim does not have the courage to talk to the police;
- Victims, offenders, and local communities believe that the problem should be solved within the family;
- Victim was forced to report the problem to the village chiefs and as it was believed that the chiefs can bring back peace to both parties; and
- Parents, extended family and /or friends were not supportive.

100. In Port Vila, sexual offense victims for both females and males between the age group of 10–17 years have the highest number, followed by age group of 31 and above.

101. The Office of Correctional Services data shows only the current sentences of prisoners among the six provinces of Vanuatu. The sentences which is under the supervision of the probation staff involved community work with average working hours of

124, parole, and supervision. There were a total of 313 prisoners serving sentences as of June 2011.

102. On 11 September 2012 the Vanuatu Correctional Centres undertook a census of its 191 detainees. This represents an increase of approximately 35% over 2007, with the peak number of detainees at 220 in early 2012. At the time of the census there was only one female detainee in custody. In early 2012 there were eight female detainees which is the maximum recorded; and for long periods there can be no female detainees. At the time of the census 13% (24) of the detainees were on remand, although the census report notes that the number on remand changes from day to day, often with relatively large numbers due to arrests of groups of people in relation to the same crime. It was found that offences against morality or sexual offences are the biggest single group of offences, with the victims of sexual offences divided equally between girls and adult women. The longest sentence was 34 years with the average sentence length at 6.2 years and just over half or 59% of sentences were five years or less.

103. The Vanuatu Correctional Centres analysis shows that sentences are gradually getting longer, especially the sentencing pattern for sexual offences. The guidance judgment of the Chief Justice that rape should attract a custodial sentence except in the most exceptional circumstances has had the effect of increasing the number of custodial sentences for this type of offending.

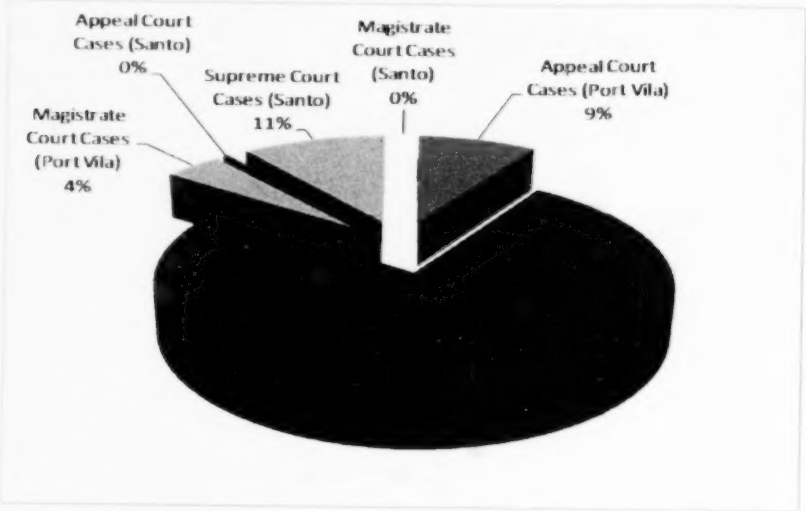
104. There is no incidence of death in custody per data of Vanuatu's Correctional Services office except one case of an escape prisoner who died at the hospital following his recapture in 2009. The death case was investigated by Vanuatu Coroner. The Coroner's report called for an inquiry into the prisoner's death and a scaling down of the Vanuatu Mobile Force (VMF) powers. The case is pending with the Supreme Court, as Civil Case No. 71 of 2011, challenging the Coroner's Report and the inquest claiming it to be unlawful, void and of no legal effect. The police claimed that the manner in which the inquest was conducted was not done according to law as some members of the Commission of Inquiry have some conflict of interest and the questions posed during the inquest were formulated by foreign advisors from Vanuatu's Judiciary system.

105. There is no data to show the number of persons executed under the death penalty per year because under the Penal Code of Vanuatu, the sentence of death penalty is not a recognized punishment for criminal offense.

106. There is a considerable backlog of court cases. In 2011, 166 new court cases were registered by the prosecutors of the State Law Office, of which 7 cases were closed in 2011, and the remaining 159 cases were ongoing and added to the backlog of cases, which has now reached 694 court cases. Of the 694 ongoing cases, the largest proportion, almost 90%, were for the Supreme Court (fig. 14)

Figure XIV

Distribution of 694 ongoing cases, court and location, 2011


Appeal Court Cases (Santo) 0%
Supreme Court Cases (Santo) 11%
Magistrate Court Cases (Santo) 0%
Appeal Court Cases (Port Vila) 9%
Magistrate Court Cases (Port Vila) 4%

Source: Annual Development Report, 2012

107. In 2009, there was a total of 652 Vanuatu police staff (260.8 VPF staff per 100,000 persons), while in 2011 there was a total of 670 (268 VPF staff per 100,000 persons) Vanuatu police staff (see table 15).

Table 14

Total number of police/security personnel per 100,000 persons, Vanuatu: 2010–2011

Number of police security personnel	*2010*	*2011*
Vanuatu Police Force Staff	652	670

Source: VPF, 2011

108. In 2012 there were four male and four female magistrates, five male judges and one female judge. Of the six judges, three were ni-Vanuatu males and the rest were recruited from overseas.

109. The Office of the Public Solicitor (OPS) is mandated by the Act of the Public Solicitor [Cap 177] to provide legal assistance to needy persons or when so directed by the Supreme Court. The OPS has a means test to qualify as "needy persons" before any application may be granted. As defined, "needy persons" means anyone who earns a salary of less than 50,000 vatu per month. The legal assistance includes advice and court representation involving criminal cases and civil cases such as injury claims, employment matters, accident claims, restraining orders, probate cases, maintenance of children and family, divorce issue, property, and family matters. The number of people who applied for free legal aid assistance has decreased since year 2006 to 2011. The data for year 2011 indicates only the number of persons who applied for the first semester of 2011. However, the data provided are not sex-disaggregated (see table 16).

Table 15
Total number of people who applied for free legal aid, Vanuatu: 2006–2011

Type of case	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	*2011*
Civil	154	593	289	314	169	243	388
Criminal	198	336	22	261	296	252	227
Total	**929**	**311**	**575**	**465**	**675**	**675**	**615**

Source: OPS, 2011

110. The total numbers of registered and pending cases before the OPS are shown on the table below. The table shows that there has been an increase of female registration from 2006 to 2011. There are still cases from years 2006–2011 pending before the Courts for which exact figures are yet to be provided by the Office of the Public Solicitor. Many of these registered cases have either been decided by the Court or were settled extra-judicially by the parties. The data also exclude advices provided by the OPS (see table 17).

Table 16
Total number of registration of cases, Vanuatu 2005–2011

Year	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	*2011*
Female							
Civil	47	84	66	75	91	143	305
Criminal	11	9	9	14	11	14	218
Sub total	58	93	75	89	102	157	523
Male							
Civil	143	419	223	243	205	280	305
Criminal	140	336	213	247	157	238	218
Subtotal	283	755	436	490	362	518	523
Total	**341**	**848**	**511**	**579**	**464**	**675**	**1, 046**

Source: OPS, 2011.

111. There is no information available from the judiciary about the proportion of victims compensated after adjudication, by type of crime.

112. In 2013 6% of the total government budget (recurrent and aid in kind and grants) was appropriated for police, security and the judiciary; 9% of government-sourced funds and 1% of the aid budget. This compares with a share of the total budget in 2012 of 8%, 10% of the government-sourced funds and less than 1% of the aid budget.

III. General framework for the protection and promotion of human rights

A. Acceptance of international human rights norms

113. According to the Ministry of Foreign Affairs (MoF), Vanuatu has signed a total of 107 conventions. It is a signatory to most of the core international instruments of the United Nations. There are a total of eight conventions signed under the conventions of the

International Labour Organization. Vanuatu did not sign the United Nations Educational, Scientific and Cultural Organization conventions. Under the Geneva Conventions and other treaties on international humanitarian law, it has acceded to three conventions and ratified one convention.

Table 17

List of signed international human rights conventions and protocols, Vanuatu: 2011

Human Rights Instruments	*Date of Ratification, accession or succession*	*Reservations and declarations. Derogations, restrictions, or limitations*	*Other regional human rights conventions*
A. Main international human rights conventions and protocols			
International Covenant on Civil and Political Rights , 1966	21 November 2008		
Convention on the Elimination of All Forms of Discrimination against Women , 1979	8 September 1995		
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment , 1984	Acceded 12 July 2011		
Convention on the Rights of the Child , 1989	Ratified 7 July 1993		
Convention on Rights of Persons with Disabilities	Acceded 23 October 2008		
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 2000	26 September 2007		
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography, 2000	17 May 2007		
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, concerning individual complaints and inquiry procedures, 1999	17 May 2007		
B. Other United Nations human rights and related conventions			
United Nations Convention against Transnational Organized Crime, 2000, and its Protocols against the smuggling of migrants by land, sea and air, and to prevent, suppress and punish trafficking in persons, especially women and children			
C. Conventions of the International Labour Organization			
Forced or Compulsory Labour Convention, 1930 (No. 29)	Ratified 28 June 2008		
Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)	Ratified 28 June 2008		
Right to Organize and Collective Bargaining Convention, 1949 (No. 98)	Ratified 28 June 2006		
Equal Remuneration Convention 1951 (No. 100)	Ratified 28 June 2006		
Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	Ratified 28 June 2006		
Abolition of Forced Labour Convention, 1957 (No. 105)	Ratified 28 June 2006		

Human Rights Instruments	*Date of Ratification, accession or succession*	*Reservations and declarations, Derogations, restrictions, or limitations*	*Other regional human rights conventions*
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	Ratified 28 June 2006		
Worst Forms of Child Labour Convention, 1999 (No. 182)	Ratified 28 June 2006		
D. Conventions of the United Nations Educational, Scientific and Cultural Organization			
E. Conventions of the Hague Conference on Private International Law			
Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, 1993			
F. Geneva Conventions and other treaties on international humanitarian law			
Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 1949	Acceded 27 October 1982		
Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 1949	Acceded 27 October 1982		
Geneva Convention (III) relative to the Treatment of Prisoners of War, 1949	Acceded 27 October 1982		
Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, 1987 (Ottawa Convention)	Ratified 9 June 2005		

B. Legal framework for the protection of human rights at the national level

114. **Constitution**. The Constitution of Vanuatu under part I, articles 5 and 6, contains the fundamental rights and duties of an individual. Article 5 of the Constitution provides for the fundamental rights and freedoms of an individual, without discrimination on the grounds of race, place of origin, religious or traditional beliefs, political opinions, language or sex while article 6 provides for the enforcement of fundamental rights The Constitution under part II, articles 7 and 8, provides for the fundamental duties of an individual, which duties are non-justiciable.

115. **Legislation**. There were various laws enacted for the protection of human rights, which are as follows:

- Criminal Procedure Code [Cap 136]
- Penal Code [Cap 135] and Penal Code (Amendment) Act No. 25 of 2006 and Act No. 14 of 2007
- Police Act [Cap 105]
- Employment Act [Cap 160], Employment (Amendment) Act No. 31 of 2008, Employment (Amendment) Act No. 33 of 2009 and Act No. 25 of 2010
- Decentralization Act [Cap 230] of 1994
- Labour (Work Permits) Act [Cap 187]

- Health and Safety at Work Act [Cap 195]
- Trade Disputes Act [Cap 162]
- Trade Unions Act [CAP 161]
- Public Service Act [CAP 129]
- Vanuatu National Provident Fund Act [Cap 189]
- Vanuatu Red Cross Society Act [Cap 151]
- Correctional Services Act No. 10 of 2006 and Correctional Services (Amendment) Act No. 13 of 2007
- Public Solicitor Act [Cap 177]
- Ombudsman Act [Cap 252]
- Public Prosecutor Act [Cap 293]
- Family Protection Act No. 28 of 2008.

116. Vanuatu appears to have two approaches in enforcing human rights instruments. For its part, the Court of Appeal indicated in the family law case of *Joli* v. *Joli* that the rights and concepts set out in conventions needed to be given substance by Parliament in accordance with the separation of powers doctrine before they could have local application. However, in the land dispute case of *Noel* v. *Toto* the Supreme Court cited the Convention on the Elimination of All Forms of Discrimination against Women to support its decision to grant women equal rights to land entitlements. Also, in the cases of *Molu* v. *Molu* and *Nanka* v. *Kaurua*, Lunabek ACJ invoked the ratified Convention on the Rights of the Child to ground decisions in the best interests of the child principle over the disputed custody of children (Pacific Human Rights Law Digest, 2005).

117. The constitution provides the remedy for any person who considers that his or her constitutional right has been, is being, or is likely to be infringed, to, independently of any other possible legal remedy, apply to the Supreme Court for the enforcement of such right. The Supreme Court is empowered to make orders, issue writ and give directions, including the payment of compensation, as the case may be, in order to enforce that rights (VU Const. art. 6, cl. 1 & 2).

118. The judiciary and various government agencies have competence over human rights matters, which are as follows:

- The Judiciary (Court of Appeal, Supreme Court, Magistrates' Court, Island Courts). The island courts are operating at the local level which has a limited jurisdiction over civil and criminal matters. The magistrates' courts deal with routine legal matters. The Supreme Court is an intermediate-level court which has unlimited jurisdiction over criminal and civil matters. It also has jurisdiction over cases appealed from the magistrates' courts. The Court of Appeal is the highest appellate court.
- The Vanuatu Police Force. The Vanuatu Police Force (VPF) is mandated under Cap 105 to ensure the security at all times in Vanuatu and that the people residing in Vanuatu live in peace and harmony. The VPF is under the leadership of the commissioner of police, who is responsible for coordinating the welfare of the police under three elements: General Duty Police (blue uniforms), Vanuatu Mobile Force (green uniform) and maritime wing (white uniform). The functions of the police force are provided for under section 4 of the Police Act, quoted below:

"Section 4. Functions of the Force.

(1) It shall be an essential duty of the Force to maintain an unceasing vigilance for the prevention and suppression of crime.

(2) The Force shall be employed throughout Vanuatu and its territorial waters for –

(a) the preservation of peace and the maintenance of order;

(b) the protection of life and property;

(c) the enforcement of laws;

(d) the prevention and detection of offences and the production of offenders before the Courts; and

(e) such other duties as may be expressly provided for by law".

- The Office of the Ombudsman. This is a constitutional body created under article 61 of the Constitution. It is governed by the Ombudsman Act [Cap 252] and the Leadership Code [Cap 240]. The Ombudsman office investigates alleged breaches of the Leadership Code, language rights or maladministration by government agencies, public servants and/or leaders. It does not have adequate resources or independent power to prosecute. The results of its investigations may not be used as evidence in court proceedings. Cases reported to the ombudsman which are deemed to be valid are referred to the Public Prosecutor's Office for further action. Part 3, section 11, of the Ombudsman Act provides for the functions of the Ombudsman, quoted below:

"Section 11. Functions of the Ombudsman (1) The Ombudsman has the following functions:

a) to inquire into any conduct on the part of any government agency;

b) to inquire into any defects in any law or administrative practice appearing from any matter being inquire into;

c) to inquire into any case of an alleged or suspected discriminatory practice by a government agency;

d) in respect of conduct of a leader occurring on or before the 1st day of July 1998, to inquire into any case of alleged or suspected breach of Chapter 10 (Leadership Code) of the Constitution;

e) in respect of conduct of a leader occurring after 1st July 1998, to conduct an investigation in accordance with Part 5 (Immunities) of the Leadership Code [Cap 240];

f) to undertake mediation in accordance with section 13 (mediation)."

- Office of the Public Prosecutor. This is a constitutional body established under article 55 of the Constitution and is governed by the Public Prosecutor's Act [Cap 293]. Part 3, division 2, section 8, of the Public Prosecutor's Act provides for the functions of the Office of the Public Prosecutor, quoted below:

"Section 8. Functions of the Public Prosecutor

(1) The functions of the Public Prosecutor are:

(a) to institute, prepare and conduct preliminary inquiries;

(b) to institute, prepare and conduct on behalf of the State, prosecutions for offenses in any court;

(c) to institute, prepare and conduct, on behalf of the State appeals in any court in respect of prosecutions;

(d) to conduct, on behalf of the State as respondent, any appeal in any court in respect of prosecutions;

(e) if requested by the Attorney General to do so, to institute, prepare and conduct on behalf of the State, or be a party to, proceedings under legislation dealing with proceeds of crime, mutual assistance or extradition; and

(f) to discontinue prosecutions regardless of who instituted them;

(g) if requested to do so, to give advice to members of the Vanuatu Police Force and any other investigators in relation to investigations, proposed prosecutions or prosecutions;

(h) to provide assistance in obtaining search warrants; and

(i) to prosecute breaches of the Leadership Code [Cap 240]; and

(j) such other functions that are conferred on the Public Prosecutor by this Act or any other law".

- Office of the Public Solicitor. This is a constitutional body established under article 56 of the Constitution and governed by Public Solicitor Act [Cap 177]. Its mandate is to provide legal assistance to needy people or to any person on being directed to do so by the Supreme Court. Section 5 of the Public Solicitor Act provides for its functions, quoted below:

"5. Functions of the Public Solicitor

(1) The function of the Public Solicitor is to provide legal assistance –

(a) to needy persons; or

(b) to any person when so directed by the Supreme Court.

(2) For the purposes of this section the term "needy person" is to be interpreted in relation to each particular case and, without limiting the generality of this expression, account shall be taken of the means of the person to meet the probable cost of obtaining alternative legal assistance, the availability of such assistance and the hardship which might result to the person if compelled to obtain legal assistance other than by the Public Solicitor.

(3) Any person aggrieved by a refusal of the Public Solicitor to provide legal assistance may apply to the Supreme Court for a direction".

119. There are various institutions or national machinery with responsibility for overseeing the implementation of human rights, which are as follows:

- Family Protection Unit. In order to address the rapid increase of immorality offenses, the Family Protection Unit (FPU) was established in the Vanuatu Police Force (VPF) in 1995 under the Criminal Investigation Department (CID), and was formalized in January 1998 after the VPF strategic review of 1997. The FPU deals

with various immorality offenses, cases of child's physical abuse, and provides awareness program in collaboration with other stakeholders in Vanuatu and the Pacific region.

- Family Protection Task Forces. A national family protection task force and three provincial task forces were established as an advisory bodies for the implementation of the Family Protection Act on eliminating violence against women, children, and people with disabilities. The national task force is now at the stage of recruitment process for Authorized Persons (APs) and is in the process of finalizing the APs Operation Manual in the conduct of its operation for the issuance of Temporary Protection Order (TPOs).

- Department of Women's Affairs (DWA). Established under the Ministry of Justice and Community Services to advance the status of women and enhance their lives through gender mainstreaming mechanisms and implementation of policies. The DWA is also mandated to oversee the implementation of the policies and programs for children and persons living with disabilities. The following committees were established under the supervision of DWA, to wit:

    - National CEDAW Committee. The coordinating body established to oversee the program implementation for advancement of women. A National Plan of Action for Women (2007–2011) has been developed. The Gender Policy (2008–2012) paper is currently finalized.

    - National Children's Committee (NCC). This is officially recognized as the regulatory body coordinating and supervising children's rights throughout Vanuatu. The membership of this committee is under review as an initial stage to revive the committee. The National Children's Policy (2007–2011) has been developed and is under review to draft a current policy and a National Plan of Action for Children. A Child Desk Officer and Child Protection Officer are currently working with DWA.

    - National Disability Committee (NDC). The membership of the NDC is reviewed for reappointment. This is the official coordinating body to oversee the program implementation for people with disability. The National Disability Policy and Plan of Action (2008–2015) has been developed. A Desk Disability Officer is currently employed with DWA.

120. National AIDS Committee (NAC). This is a coordinating body established in 2006 under the Ministry of Health to provide continuing leadership in the national response to the burden of HIV and STI. NAC led the development of the National Strategic Plan for HIV & Sexually Transmitted Infections 2008–2012, with goals of reducing the prevalence of STI and to prevent and minimize the spread of HIV infection in the Vanuatu population. During the reporting period of this report, a comprehensive HIV policy draft paper is being done for submission to the Council of Ministers. This is discussed under the convention-specific report.

Policies and mechanisms for gender mainstreaming

121. Gender Equity (previous term) Policy 2003 was developed under the endorsed 1997 Comprehensive Reform Agenda of Vanuatu. In June 2006, the Government of Vanuatu released its new Prioritized Action Agenda (PAA) 2006–2015 entitled "An Educated, Healthy and Wealthy Vanuatu". The agenda includes nine benchmarks to improve the situation of women. These are the following:

- Visibility and meaningful participation in decision-making;

- Valuation of the contribution of women;

- Economic equality and independence;
- Violence against women and discriminatory laws;
- General physical and mental health;
- Reproductive health;
- Customs, religion and culture;
- Education;
- Environmental management and subsistence production.

122. An Equity Desk was established under the Department of Strategic Management, with a Social Equity Task Force with representatives from government and civil society organizations in order to monitor the development and implementation of gender equity policy. However, this task force is no longer active.

123. A Gender Focal Person was established in all government ministries. In 2006 a CEDAW committee was established with representatives from government and civil society organizations to oversee the recommendations on the concluding comments of the Committee on the Elimination of Discrimination against Women (CEDAW/C/VUT/CO/3), based on Vanuatu's combined initial, second and third periodic reports (CEDAW/C/VUT/1-3) to that Committee.

124. In 2006, the Parliament committed through law to promote equal remuneration upon ratifying International Labour Organization (ILO) Convention No. 100 (1951) concerning Equal Remuneration.

C. Framework within which human rights are promoted at the national level

125. **National and regional parliaments and assemblies**. The parliament supports the human rights activities of the country through signing of various human rights instruments and legislations of various domestic laws for the promotion of human rights. It has affirmed its support and commitment through various advocacies and implementation of government policies and programs, which are discussed in this periodic report.

126. The Shefa Provincial Government Council has adopted the Convention on the Elimination of All Forms of Discrimination against Women as its platform for action and appointed a Women's Coordination Officer to advance the status of women in the province. In November of 2010, Shefa Provincial Council endorsed a resolution with the mandate to reserve 25% seats for women out of the 18 seats in the council in the coming 2012 elections.

127. The Tafea Provincial Government has recognized the appointment of a woman Secretary General (SG) for Tafea Province. The SG is the first appointed woman in the history of Vanuatu to head the provincial government.

128. **National human rights institutions**. Vanuatu does not have an international human rights institutions accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (UPR, 2009).

129. **Dissemination of human rights instruments**. The Ministry of Foreign Affairs (MoFA) has drafted a Council of Minister (CoM) paper on the basic procedures and processes for treaty signing; however, this paper has yet to be approved by CoM.

130. Vanuatu is the first Pacific Island country to ratify the Convention against Torture . Prior to its ratification in April 2011, a wide dissemination announcing its commitment for ratification had been made within the country through local newspapers and radio and throughout the Pacific through Radio Australia.

131. In 2009 Vanuatu had attended and participated the Melanesian Sub-Regional consultation on the United Nations Convention against Corruption. Vanuatu's delegations were government officials from the Office of the Prime Minister and the Office of the Ombudsman, the media councils including involvement of civil society organizations.

132. **Raising human rights awareness among public officials and other professionals**. In 2006, the Ministry of Foreign Affairs (MoFA) established a treaty division within the ministry purposely to assist the government departments relative to treaty legislation proposal. The treaty division activities include the conduct of pre-awareness training on the understanding of the treaties to which the Government is a party.

133. The Department of Women's Affairs (DWA) in partnership with the Regional Rights Resource Team (RRRT) has conducted various human rights awareness training. In 2010, various church leaders of the Vanuatu Christian Council and the Pacific Council of Churches participated in the human rights awareness training in Luganville, Santo, and in Luvinvilly, Ambae. In the same year, the same training was also conducted and was participated by the Vanuatu Association of Nongovernmental Organizations (VANGO) and other NGO stakeholders. In April of this year, human rights awareness training to increase knowledge and enhance service delivery attended by police officers was conducted by RRRT in Port Vila. During the International Women's Day celebration, a workshop on human rights awareness was also conducted.

134. **Promotion of human rights awareness through educational programmes and Government-sponsored public infor:nation**. The Ministry of Education established a task force to prepare a new curriculum to introduce civic education courses in the country. The task force is working closely with Transparency International in Vanuatu (TIV) which launched in 2004 the first civic education manual in French and English for year seven and eight students in schools throughout the country. Transparency Vanuatu conducted 60 major civic awareness workshops throughout the islands, working alongside the local government authorities. The chapter educates citizens on the role of the Vanuatu constitution, citizens' rights and duties, democracy, human rights and corruption. As part of these workshops, Transparency Vanuatu produced and distributed booklets about the constitution, civic awareness and corruption in Bislama. Basic explanations on CEDAW were also included in the booklet.

135. The Vanuatu Police Force launched the Vanuatu Police quick reference guide to enhance the police capacity during operations and to achieve consistent applications of laws in Vanuatu. The guidebook involves queries regarding police roles, functions and basic procedures applicable to Vanuatu Police Force members of whatever rank or assignment. The guidebook is organized according to major topics such as investigations, arrests, detention, sexual offenses and domestic violence.

136. **Promotion of human rights awareness through mass media**. The mass information media in Vanuatu plays an active and vigilant role in disseminating information about human rights and international human rights instruments. Information such as government reports and activities involving human rights situations of the country are reported and provided in print and broadcast media through local newspapers, radio, television and internet.

137. The Daily Post newspaper publishes every Thursday, a free page column called Sistas Toktok (Sisters Talk) which provides information on women's development issues in

Vanuatu. Any individual or organization may course its request for publication of its articles through the Department of Women's Affairs.

138. **Role of civil society, including non-governmental associations**. The non-governmental organizations in Vanuatu are influential in government policy decisions. The Government has been working with civil society organizations and most often consults them to provide inputs in national policies. The NGOs are also invited by the Government to participate in regional and international conferences. The Vanuatu Association of Non-governmental Organizations (VANGO) and the Government are reviewing a proposed Memorandum of Agreement in support of VANGO's activities by the Government.

139. **Budget allocations and trends**. There is no data available to show budgetary trends and percentages of the national budget and gross domestic products (GDP) and disaggregated by sex and age for the implementation of human rights obligations and budget impact assessment.

140. **Development cooperation and assistance**. The 2010 annual budget, based on the Department of Treasury report, recorded by the government as Overseas Development Assistance (ODA) is $46 million USD (65% of the aid to public sector), while the amount disbursed by development partners during the same period was $112 million USD (40%). This undervaluation of the aid flows was attributed to, among other things, lack of an appropriate tool for the Government to reflect the information on operational and financial matters about ODA. (DSPPAC: Survey on monitoring the Paris Declaration, country report, 2011).

141. Vanuatu supports the peacekeeping process of the United Nations through its peacekeeping role in East Timor, Bosnia, Solomon Islands, and Bougainville, and has contributed civilian police to these United Nations peacekeeping initiatives. Vanuatu affirmed to remain its support to any future peacekeeping engagements. There were 14 recruited police officers who underwent the recruitment process of the United Nations to be sent to Africa, but the 14 officers failed to qualify. During the reporting period of this report, five police officers (one female and four males) are currently deployed in the Solomon Islands. There are also five police officers on training in Australia to substitute the service of the police officers (one female and four males) in the Solomon Islands when their contract finishes. Vanuatu also signifies electoral assistance to coordinate activities of foreign observers during the elections particularly in Solomon Islands, Bangladesh and East Timor. Vanuatu's parliament has voted to support West Papua's indigenous peoples right to self-determination, seeking to have its independence noted. Vanuatu was granted observer status at the Melanesian Spearhead Group and the Pacific Islands Forum leaders' summit meeting.

D. Reporting process at the national level

142. The Ministry of Foreign Affairs is the focal point for treaty reporting. However, the operational focal point is the Ministry of Justice and Community Services (MoJCS). The Department of Women's Affairs (DWA) is mandated to spearhead the treaty reporting of the Committee on the Elimination of Discrimination against Women, the Convention on the Rights of Child and the Convention on the Rights of Persons with Disabilities. The office of the Correctional Services is tasked to report on the Convention against Torture. A National Committee for each treaty to which the Government is a State party has been established to review the treaty report before it is submitted to the Council of Ministers for approval.

Follow up to concluding observations of human rights treaty bodies

143. With regard to reporting to the Committee on the Elimination of Discrimination against Women, a National CEDAW Committee was established, whose members are representatives of government departments, agencies, and non-governmental women's groups. The members of the committee were appointed by the Minister of the MoJCS, with the mandate of implementing the United Nations Committee's concluding observations, which form part of the Committee's terms of reference.

144. As part of the National CEDAW Committee reporting mechanism, it created and approved subcommittees to facilitate the reporting process of the CEDAW report by assigning each subcommittee specific parts of the periodic report to work on based on the treaty reporting guidelines issued by the United Nations. The subcommittee chairpersons are members of the national CEDAW committee while the subcommittee members who were identified by the Sub Committee chairpersons may or may not be a member of the national CEDAW committee. The Sub Committee developed its own terms of reference for the reporting process in line with the terms of reference of the National CEDAW Committee.

145. A treaty reporting workshop was conducted and participated by the National CEDAW Committee members, other government representatives, civil society organizations, and women's groups. The main objective of the workshop was to review the previously submitted periodic report, the universal periodic review report and the Shadow Report, and to monitor the progress the government has made relative to implementation of the Convention. As a result, an institutional framework for the preparation of the report and a reporting structure were established.

146. The Ministry of Foreign Affairs in partnership with the Regional Rights Resource Team (RRRT) conducted a treaty reporting workshop participated by the treaty National Committee. The objectives of the workshop were to assist the committee in drafting the treaty report, and to integrate all information and data required for the common core document report following the United Nations guidelines. As a result, a policy paper has been drafted proposing a National Human Rights committee with the responsibility of overseeing all treaty reporting processes to which Vanuatu is a party.

147. The Convention reporting framework and structure involves the establishment of the Sub Committee groups and identification of a reporting mechanism. There are four Sub Committees assigned to collect data and to submit the highlights of their reports following the section and parts of the periodic report guidelines. The treaty reporting structure is multi sectoral in approach, which involves the participation of the various government ministries, departments, agencies, civil based organizations, and non-governmental women's organizations. Provincial consultations to assess the human rights situation at the provincial level were also conducted. The provinces involved were Tafea and Sanma provinces, representing the southern and northern provinces of the country. Due to funding constraints, four other provinces were not involved in the consultation. The participants during the consultation were various government and non-governmental representatives at the provincial level.

148. A series of round table discussions were held to review the consolidated periodic report, with the assistance of a resident consultant. The final report was submitted to the Council of Ministers for approval. A copy of the approved periodic report was given to the Shadow Committee for comments. The treaty report is translated into three official languages in Vanuatu, which are Bislama, English and French.

IV. Information on non-discrimination and equality and effective remedies

A. Non-discrimination and equality

149. The Ministry of Justice and Community Services is strengthening its law and justice sector programme by reviewing its legislative framework to ensure that it is current and relevant to the Vanuatu context. This framework involves both domestic legislative and policy frameworks to ensure that these are consistent with its obligations under the conventions and the treaties to which Vanuatu is a State party. Currently, it is in the process of identifying gaps, and its responsibilities relative to Vanuatu's existing legal and administrative frameworks, and assessment of implementation costs.

150. As part of this process, the Australian government provided assistance to Vanuatu on how to advance the implementation of the Convention against Torture, such as working with government officials and providing a capacity building exercise in reviewing Vanuatu legislation against the treaty instrument. The Office of the United Nations High Commissioner for Human Rights in Fiji also provided assistance with possible models for future implementation of the Convention in Vanuatu.

151. The Government has taken various measures to eliminate discrimination in all its forms and on all grounds. In terms of its international commitment, the Government has acceded to the Optional Protocols to the Convention on the Rights of Child and Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. The Convention on the Rights of Persons with Disabilities and the Convention against Torture were also acceded to. Vanuatu has also ratified the International Covenant on Civil and Political Rights.

152. There are various domestic laws that were passed and approved such as the approval of Correctional Services Act No. 10 of 2006 and its amendment under Act No. 13, in 2007. The Correctional Services Act was established to provide for the administration of correctional services and the establishment and operation of the correctional centers for the protection of the prisoners.

153. In 2008, amendments to the Employment Act Nos. 31 of 2008, Act No. 33 of 2009 were passed into law. The amendment, among other things, allows for a woman's full pay on maternity leave under section 36 (2), one hour instead of half an hour nursing time under section 36 (3), and severance payment of two months per year of service under section 56 (2) (a). Amendment Act No. 25 of 2010 under the Employment Act involving Tripartite Labour Advisory Council was also passed in 2010 as mentioned in the conventionspecific document report. These amendments are discussed in the convention-specific document report.

154. The Family Protection Act (FPA) No. 28 was approved in 2008. As part of FPA implementation, the Ministry of Justice and Community Services is piloting the implementation for issuance of application of Temporary Protection Order (TPO) by qualified Authorized Persons (APs). During the reporting period of this report, the recruitment process for APs who are qualified to issue TPOs is ongoing, and the Operational Manual is being finalized. This is discussed in the convention-specific document report.

155. The Vanuatu Law Commission, which was established under [Cap 115] is tasked to develop an issue paper on Family Law Reform which includes family relationship issues, possible changes to the Citizenship Act, family breakdown and child welfare.

156. The MoJCS with assistance from UNICEF is currently restudying a Child Protection System relevant for children in Vanuatu. During the reporting period of this report, a mapping exercise of both formal and informal services relative to protection of children involving the chiefs, church, civil based organizations and NGOs. The identification of gaps in the implementation of the system is also being done to be used in developing a draft model for a social welfare system for children in Vanuatu.

157. The definition of non discrimination is embedded in the constitution of Vanuatu. It is provided for under Section 5 (1) (2) of the Constitution, quoted below:

"Section 5 (1). The Republic of Vanuatu recognizes, that, subject to any restrictions imposed by law on non-citizens, all persons are entitled to the following fundamental rights and freedoms of the individual without discrimination on the grounds of race, place of origin, religious and traditional beliefs, political opinions, language or sex but subject to respect for the rights and freedoms of others and to the legitimate public interest in defense, safety, public order, welfare and health:

(a) Life;

(b) Liberty;

(c) Security of the person;

(d) Protection of the law;

(e) Freedom from inhuman treatment and forced labour;

(f) Freedom of conscience and worship;

(g) Freedom of expression;

(h) Freedom of assembly;

(i) Freedom of movement;

(j) Protection for the privacy of the home and other property and from unjust deprivation of property;

(k) Equal treatment under the law or administrative action, except that no law shall be inconsistent with this sub-paragraph insofar as it makes provision for the special benefit, welfare, protection or advancement of females, children and young persons, members of under-privileged groups or inhabitants of less developed areas".

"Section 5 (2). Protection of the law shall include the following:

(a) Everyone charged with an offense shall have a fair hearing, within a reasonable time, by an independent and impartial court and be afforded a lawyer if it is a serious offense;

(b) Everyone is presumed innocent until a court establishes his guilt according to law;

(c) Everyone charged shall be informed promptly in a language he understands of the offense with which he is being charged;

(d) If an accused does not understand the language to be used in the proceedings he shall be provided with an interpreter throughout the proceedings;

(e) A person shall not be tried in his absence without his consent unless he makes it impossible for the court to proceed in his presence;

(f) No one shall be convicted in respect of an act or omission which did not constitute an offense known in written or custom law at the time it was committed;

(g) No one shall be punished with a greater penalty than that which exists at the time of the commission of the offense;

(h) No person who has been pardoned, tried and convicted or acquitted shall be tried again for the same offense or any other offense of which he could have been convicted at his trial".

158. The legal system allows for or mandates special measures full and equal enjoyment of human rights subject to the provisions contained in the Constitution.

159. In 2006, an amendment of the Penal Code was passed relative to the definition of sexual assault in order to make the elements of the crime inclusive. The amendment of Penal Code Act No. 14 was also passed in 2007 relative to sentencing. The amendments are discussed in the convention-specific report.

Human rights situation of specific vulnerable groups

160. **Women**. According to the Vanuatu Gender and Investment Climate Reform Assessment (January 2010) by the World Bank, ni Vanuatu women are considered nurturers – the protector of culture and the land. The identity of many ni-Vanuatu women is associated with religious worship, custom, family and motherhood. They can influence decisions in the home rather than in public fora. In the church context, however, women hold leadership roles such as treasurer position, but not in the political arena, in which women are underrepresented.

161. The assessment report shows that women make a significant contribution to the rural economy but are less represented in the formal economy due to social and cultural and legal constraints to entrepreneurship and participation. It was also reported that women derived less benefit from Vanuatu's recent land development.

162. There has been significant achievement for women in education and health as discussed in the convention-specific report. In a study on women's lives and family relationship conducted by VWC in partnership with VNSO, it was reported that there is strong evidence of domestic violence against women in Vanuatu. The result of the study is discussed in the convention-specific report. Meanwhile, the Family Protection Act (FPA), which provides for Temporary Protection Orders (TPO) for victims of domestic violence, is in the process of implementation .

163. **Children**. In Vanuatu, greater awareness is needed about the rights of children who were experiencing violence while in custody. A great proportion of child-related cases (95%) are diverted back to community and 78% of caregivers within the households admit to using physical punishment. The research found out that children in Pacific Islands such as in Vanuatu speak more freely in informal spaces (with friends and at home) compared with more formal spaces (at school or in the community). It was also identified that child protection issues in Pacific Islands are sensitive and at times "hidden" in communities (Vanuatu Child Protection Baseline Report, 2008).

164. In 2009, the Pacific Regional Framework provided the basis for a joint Pacific Government/UNICEF Child Protection Programme (2008–2012). As a result, legislative reform recommendations for Vanuatu were made and a strong partnership with the police force has resulted in improved understanding of children's rights, better practices in relation to diversion, alternative sentencing and community restorative justice (A Vanuatu case study, 2010).

165. **Persons with Disabilities**. The VNSO 2009 Census indicates that about 12% of the total population reported a disability. For census purpose, disability refers to whether a person had any difficulties or health problems in seeing, hearing, walking, and/or remembering or concentrating — regardless of the severity of the difficulties experienced and whether a person is blind, deaf, lame or senile and/or amnesiac. According to VNSO National Population and Housing Census 2009 Analytical Report, the proportion of females with disability was slightly higher than males. It was also reported that the proportions of population with disability were notably higher in Malampa province compared to the national average, and it was lower in Sanma and Tafea provinces. Census 2009 also shows that children younger than 5 years of age had a disability (6%), young people aged 5–24 years (5%), age 40 onwards (continuously increasing), and older than 60 years of age (more than half of the population) whose difficulties were vision and walking. Among the six provincial governments, Shefa provincial government formulated new policies to address disability issues and allocated appropriate financial resources for support.

166. **People with HIV/AIDS**. Vanuatu has low HIV prevalence, however, the population of Vanuatu remains highly vulnerable to HIV infection (UNGASS Report, 2010). Three of the five people who were diagnosed with HIV (all females; 2 adults and one child under 15 years) are living with HIV. Two of the five people (one adult and one child under 15) are currently on Antiretroviral Therapy (ART). The third person has just reached WHO Clinical Staging of ART and processes have started to enroll this person on ART. Two people (both adult male) died from AIDS related complications in 2006 and 2007. They were not receiving ART as they were in the late stage of the illness (UNGASS Country Progress Report). Vanuatu has no counseling services and testing facilities, however, a manual on confidential and counseling testing services has been recently launched to serve as a standard guide for counseling services.

167. The government has not adopted any specific measures to reduce economic, social and geographical disparities, including between rural and urban areas, to prevent and eliminate negative attitudes to, and prejudice against, individuals and groups which prevent them from fully enjoying their human rights.

168. The government has not adopted temporary special measures under any specific circumstances to help accelerate progress towards equality.

B. Effective remedies

169. The constitution provides for remedies against violations of human rights under Article 6 (1) and (2), which states that:

> "Article 6 (1). Anyone who considers that any of the rights guaranteed to him by the Constitution has been, or is being or is likely to be infringed may, independently of any other possible legal remedy, apply to the Supreme Court to enforce that right".
>
> "Article 6 (2). The Supreme Court may make such orders, issue such write and give such directions, including the payment of compensation, as it considers appropriate to enforce that right".

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